JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

An inquiry into public sector procurement of goods and services and its vulnerability to corrupt practice

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
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Members

Ms M.M. Quirk, MLA (Chair)
Hon Jim Chown, MLC (Deputy Chair)
Mr M. Hughes, MLA
Hon Alison Xamon, MLC

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Hearing commenced at 10.24 am

Ms CHRISTINE MAELISA TONKIN

Public Procurement Reform Expert, examined:

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today. I am Margaret Quirk and I am Chair of the Joint Standing Committee on the Corruption and Crime Commission. The other members of the committee are Alison Xamon, MLC, right at the end there; on my direct left is Hon Jim Chown, who is the Deputy Chair and a member of the Legislative Council; and on his left is Matthew Hughes, MLA, member for Kalamunda. It is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside today's proceedings. Do you have any questions before we start today?

Ms Tonkin: No; I am looking forward to your questions.

The CHAIR: Good. Thank you very much. You have an extensive background in this area; perhaps you can just start by saying for the record what that background is.

Ms Tonkin: Okay. I started working in the field of public procurement in Queensland in the mid-90s. I did not have a background in the field, but I talked myself into a job. Then I decided that I needed to find out how procurement really operates in the public sector; my role was to look at how to improve procurement management. From there I went on to become the director of Queensland Purchasing and I led a major procurement reform that impacted on the whole of the public sector, including government-owned enterprises. From there I was seconded to the Irish government, where I worked on procurement reform there, taking 11 civil servants who had no background in procurement and helping them to understand a strategic approach to procurement management. We got some fabulous results and saved the government of Ireland a lot of money. From there I was recruited to the UN system—to the United Nations Development Programme located in Copenhagen—and from there I worked in peacekeeping in the Sudan, for the International Atomic Energy Agency in Vienna, and then consulting internationally in this field.

The CHAIR: So in some of those areas there must have been a significant risk of corruption?

Ms Tonkin: Yes.

The CHAIR: Maybe you can just outline some of the things you found in your previous experience in that regard.

Ms Tonkin: Okay. I have actually been a witness in a corruption case in the UNDP. In my experience, where you have a system of public procurement management that is very focused on process, it is very difficult to actually detect any kind of fraud and corruption, because you are so focused in on the process you do not know what is going on around it. The case in which I was involved was a $US43 million procurement of goods and associated services for the Congo. The fraud arose because the UNDP country office relied on consultants to tell them about how the market operated and how they could best undertake this procurement and have these very important goods delivered—pharmaceuticals and the like—throughout the country. It was a lack of knowledge within the UNDP that made them rely on these people who were actually in cahoots with the company that was

awarded the contract. If, as I alerted our head office to, the deficiencies in that process had been addressed, including the organisation itself finding out for itself about how the market worked and how they could best deliver, that fraud would never have happened. So if you just rely on process, the baddies can hide in the shadows. In my experience, someone always has a strategy, and if it is not you—the good guys who are doing the procurement in the public sector—who has a good strategy to get the sorts of outcomes you really need, then those who have another agenda will prevail. By being so predictable in our processes, by not having that background knowledge about what is going on in the market, what is going on among our own stakeholders, what is going on about how we can best deliver and get the outcomes we want for our organisation, then you allow other people to run an agenda.

The CHAIR: There is a bit of a tension there between, say, what is going on in the market and having a familiarity and the kind of imperative to be at arm's length and independent and everything else.

Ms Tonkin: Yes.

The CHAIR: How do you address that?

Ms Tonkin: Well, in developing a procurement strategy, you really need to do three things. You need to critically analyse the requirement, because if someone says, "I want this", is that really what they want? What are their objectives? Is there another way of doing it? You need to interrogate that. You need to have a collaborative process within an organisation to talk about what your requirement is. A number of IT projects go through multiple variations because people have not been certain about what they want up-front. So you need to do that piece. You need to also understand what the stakeholder needs and issues are. Often in procurement there can be an elephant in the room. You know that somebody wants something—this manager wants this; he really does want that particular company to win this—and you try to run a clean process with an elephant in the room. Well, if you actually identify all the stakeholders, have a team that looks at the stakeholder needs and issues, analyses where they are coming from in terms of what they want, you can then use that information to potentially refine the requirement.

Having refined the requirement and understood what you want, you need to understand how the market operates. There are structured ways of analysing markets that are very objective. This is the sort of skill that any good business graduate could bring to the party, pointing them in the right direction and giving them the right guidance. Typically, when I have looked at analysing a market, I will look at: What is the structure of the market? How do suppliers compete? Are they competing on price or are they competing on innovation and quality? What is the basis of their competition? What are the key strategies of the main players? What is the nature of the supply chain? Are there opportunities in that supply chain to get some value-for-money advantages? Are there substitutes that would meet the same objective? Has the market shifted? Are there new products or services? Then what is our value as a customer? "Public sector" always assumes that suppliers think that the public sector is god's gift to supplier-land. Well, that is not the case—you have to understand how suppliers view you as a customer. Some suppliers will just exploit you and you have to understand that. Then, of course, there are all the regulatory environmental factors that come into it that you need to understand. But you can do a very structured supply market analysis and a very structured approach to understanding stakeholders, a very structured approach to understanding the requirement, and then frame a strategy that gives you targets—the advantages you want. Then you frame your approach to the market accordingly and you can run the solicitation process under the State Supply Commission framework for running a solicitation, but at least you have come to the party with a lot of knowledge about what is going on. So, then, if you get a response from the market which is out of kilter with what you have understood to be the situation, then you have some basis

for interpreting that. You might get an offer that is below what you have estimated would be the cost that you would be anticipating to get. That could be for various reasons, but it can be just because the company is wanting to buy business. It could mean that they are financially on the skids. It could mean that there is something wrong with your requirement and they can see how they can wring out the variations. You have to understand how to interpret what you get back from the market, and given that you know what you want, you are targeting particular advantages. If anything is not looking right, then you know how to deal with that in the process of procurement.

The CHAIR: One final preliminary question before I let my colleagues pick your brain, which is obviously substantial, was there any catalyst that got the Queensland government to do this reform?

Ms Tonkin: Yes—actually, you will laugh. It was a $93 toilet brush, purchased for the fit-out of a ministerial office suite.

Hon ALISON XAMON: That is a pretty special toilet brush!

Ms Tonkin: That is a very special toilet brush. That is what raised the hackles of my then minister, the member for Rockhampton. We had already been working on how to improve procurement management, so we were a long way down that path, but he then decided that the state needed a new procurement policy that got better value for money. He was also focused on the regions and on making sure that where there were projects in Aboriginal communities, they were part of the deal in terms of the procurements. But, yes, it was a $93 toilet brush that precipitated the formulation of the state purchasing policy 2000.

Hon JIM CHOWN: Good morning, Christine, and thank you very much for attending this hearing this morning. I think we all appreciate the fact that you are here as a professional person in regard to corruption and procurement, and it is just wonderful not to have a public servant sitting here —

Ms Tonkin: Well, an ex–public servant!

Hon JIM CHOWN: — who do their best to justify their procurement processes in their relative departments. I have do a few questions. My first question is: what on earth compelled you to write to us and then ask for a hearing[1] in regard to the inquiry we are conducting?

Ms Tonkin: It was just sheer frustration. Having worked in this field for a long time, I came back to Perth to live at the beginning of 2013. I am a fourth generation Western Australian, so I love the place. I was just appalled at what I was seeing, concerning the results of procurement. It is so obvious to me what is wrong. The nail in the coffin, so to speak, was when the CCC report into the health situation came out. I had been whingeing and moaning to my family and friends about this for a long time, but that was just the living end. I was actually in Canada when that happened, and I decided I was going to write to the minister and tell him what is wrong; I am going to tell him he needs a good dose of accountability from the department, in procurement. So, that is how I came to do it. I am like a dog after a bone in this field—I am not going to rest until there is a marked improvement in procurement management in this state, because it is easily fixed. It is not rocket science. It does not require a lot of money. It just requires a little bit of tweaking—strong accountability frameworks. The sorts of skills that are needed are there—as I said, a good business graduate can do these things. But it can happen and it can make an enormous difference.

I think in Queensland the experience showed that you were getting about a 10 to 15 per cent cost improvement in procurement as a result of the framework that they put in place, which is a strategic management framework for procurement. In other places where the situation is worse, it is a 20 to 30 per cent improvement, particularly where there is a lot of leakage due to fraud and corruption.

[1] The witness did not ask to attend a hearing, but rather accepted the Committee's invitation to a public hearing.

Here I would say, at a minimum you should be aiming at 10 to 15 per cent improvement, and that is achievable. It is achievable not by having a consultant-led process, but by just guiding public servants in a new way of doing things—agreeing on an accountable framework for procurement that has to be implemented in the various agencies and then just leveraging skills that are already there.

Hon JIM CHOWN: We can get back to what you have just said, if that is okay. What is your interpretation of corruption in public procurement?

Ms Tonkin: Any situation where the interests of an individual or particular group of individuals or a firm override the public interest. But the problem is defining what the interests of organisations are. If the only interests the organisation have are running their procedures correctly, then somebody else's interest will prevail. I would say corruption is where the best interests of the state are subverted in some way by some individual or group of individuals to their advantage.

[10.40 am]

Hon JIM CHOWN: Have you had a hardened professional look at the public procurement processes in this state at all?

Ms Tonkin: Yes, I have.

Hon JIM CHOWN: Yes, you have. As we have found out here during this inquiry, which is still ongoing of course, every department has a different process, has different accountability processes. Every department has a policy regarding minor breaches where somebody is given a slap on the wrist, if anything, and major issues—I am not quite sure what a major breach is—go to the CCC. From my perspective, any breach in procurement is a breach and should be dealt with; otherwise, it sets a culture where people think they can get away with it and that grows and grows. Minor breaches, whether they are one or three hundred, amount to money, and your toilet brush scenario is a very good example, Christine. We have seen something similar with the US space program where toilets were costing $30 000 or $40 000, when in fact they cost $3 000. It goes on and on. From your perspective, if you had total control of procurement processes in the public services of this state, what steps would you take to ensure that corruption under the process could be, firstly, identified and, secondly, dealt with?

Ms Tonkin: I think this is a big dilemma. I read the transcript from the CCC hearing and I read how they are relying heavily on whistleblowers.

Hon JIM CHOWN: Correct—their only source.

Ms Tonkin: Yes, exactly.

My original letter to the Minister for Health highlighted the importance of having strong accountability frameworks for procurement. The sorts of controls that you can put in place are largely invisible to people.

Hon JIM CHOWN: Can I stop you there on that point, because it is a very important point. You talk about accountability for procurement processes. You are talking about individual accountability of the person who is conducting the procurement process step-by-step.

Ms Tonkin: No, I am talking about —

Hon JIM CHOWN: Are you talking about the person in procurement overall? Who are you actually trying to identify here, Christine?

Ms Tonkin: Ultimately, the accountable officer in my estimation is the director general—the accountable person, the accountable authority under the Financial Management Act 2006. But that

person needs to have a framework that ensures that the risks of that accountability to that person, to the ultimately accountable person, are managed. I put into my original submission a framework that we developed. It was actually developed for Trinidad and Tobago. That is where they have a very strong regime. If someone is caught under this new regime for fraud or corruption, it is prison time and a massive fine—it is summary conviction. We had to devise a framework that enabled people to operate, to be able to procure efficiently, effectively and with confidence, but to respect the fact that people could go to jail if they did not.

We looked at proper roles, relationships and responsibilities. We looked at corporate procurement strategy, corporate procurement performance and visibility over what is being procured. Entities have visibility here over their processes, over the number of transactions that they run; they do not have visibility over what they are buying. The health situation—nobody had visibility over the extent of procurement of maintenance and services contracts for health facilities. If they had had a category-level strategy that gave them that visibility, they could then say, "This is our category-level strategy. This is what we are aiming to achieve in that category. These are the things you are going to achieve in your transactions." So, we know we are spending in aggregate this amount. We know we are spending it with these people currently. We know that there are these other players in the market. We know that if we go about this procurement in this way, then we should be able to target X number of savings or increases in efficiency or whatever it is. If someone runs a transactional process, a going-to-market process, within that category that does not achieve the results that have been established in the category-level strategy, then you would start to question what is going on here. There needs to be approval of the category-level strategy at the highest level. There needs to be approval of the transactional strategy, making sure that it is consistent with the category-level strategy. You have these sorts of checks and balances. You have clearly defined roles, you have clear accountability right to the top and you have visibility over what you are buying; you have internal transparency over your procurement portfolio and the risks in that portfolio. We rely here in this state on arbitrary monetary thresholds. Procurements over $5 million require a procurement plan. That is rubbish. There should be a procurement strategy for every category that is being procured and there should be a procurement strategy for high-risk and/or high-value transactions. There are various tools you can use to identify in a systematic way the risks involved in a procurement portfolio.

Hon JIM CHOWN: How do we change the current structure in this state, which I find incredibly frustrating and irresponsible, quite frankly?

Ms Tonkin: Come out with a really strong report, make the executive government sit up and notice and realise that this can be done, that this is so important to this state. We cannot have the collective shrug. What I see is, "Oh, it is incompetence."

Mr M. HUGHES: Christine, can I go back a bit, if you do not mind. Looking at the 10 to 15 per cent, making it clear, your position is that a properly oriented and regulated procurement system is more efficient, and it is the efficiency that we really should be talking to government about. Do not get me wrong about this. We are talking about $14.7 billion as the expenditure on procurement on an annual basis. A 10 to 15 per cent saving, because we are not saying that is all being put into a wheelbarrow and carted out the back of our agencies, is in the order of $2.1 billion per annum. That is the inducement for government, really, to do something about a more efficient and focused procurement system. You have got this seven-stage hierarchy. Within that lack of regulation or sophistication, that is where the opportunities for fraud arise, is it not? That is the issue, really. So, get the system right and you are in fact in a position to be able to track behaviours that do not seem to fit the pattern that you expect.

Ms Tonkin: That is right.

Mr M. HUGHES: That is the important point to be making to government; that is, if we get a more efficient system, you kill two birds with one stone. You get a better bang for your dollar and you also cut the opportunities for people to do the wrong thing.

Ms Tonkin: You get an efficient system. I suppose I would say that you can churn through your procurement effort and get your procurements going at a reasonable pace, keeping pace with programmatic and service delivery, goals and objectives. But it is effectiveness as well. It is the effectiveness of procurement. It is identifying and targeting the results you want to achieve and then going for them.

I noticed in the service priority review they talked about, "Well we don't have a lot of information at whole-of-government level on what the opportunities might be for pooling our demand." They do not have a lot of information at the organisational level about opportunities that exist for getting better results either through leveraging volumes, which probably would be workable in about 20 to 30 per cent of the total spend. That is generally the profile. You can get volume discounting by leveraging a volume into the market but there are other ways of getting value as well. For example, in the health arena. You might buy a cheap product but it is a product that does not give you the results in terms of clinical efficiency—the efficiency with which clinicians can insert a cannula, for example. You buy a cheap cannula, clinician time is doubled, patient aggravation is trebled. So it is looking at what other value-for-money advantages you can achieve that actually further your goals and objectives in terms of your program or service delivery. It is efficiency—you are right—but it is an efficient but, above all, accountable framework that is really important, and then putting in place the strategic management mechanisms that allow you to target the results that you want to achieve. And, yes, you get very, very good financial outcomes but also very good outcomes in terms of, say, in health, the cost of services. You can impact the cost of service; you can impact reinfection rates, bed, day costs, all those sorts of things, by being smart about your buying.

[10.50 am]

The CHAIR: I have got a few general questions. I am sorry this is all over the place. One of the things that has come up—I suspect this might be what Alison wanted to ask, especially in the context of the health department—is addressing culture. That, to me, is fundamental to getting people to think differently about this area. Have you got any thoughts on that?

Ms Tonkin: I listened to the delivery of the health department folk at their hearing. What surprised me was that I did not see the director general saying, "Yes, I'm accountable here and I'm going to go back and I'm going to make sure that (a), we don't have cost blowouts in our ICT." He did say he would never have another lost business case as in the Serco contract. But that is what I did not see. I did not see them saying, "Right we are accountable and we're going to fix this and fix this across the whole of health." It is the case that health is very big and complex, but it is not the case that the director general is not the accountable person for the performance of procurement across the health system as a whole. While you have people not accepting accountability for the whole system or the whole departmental procurement, then you are going to see that the culture is not going to be right. In health, the next ICT system is going to go off the rails; that is inevitable. You can read the annual report and pick which one it might be. There will be cost blowouts, there will be delays, there will be people deflected from their normal roles, and there will be variations to the contract. People will not be well served. There is not a culture of, "Well we have to fix this. we have to get this right. We are going to make sure our whole accountability framework, all our systems, all our practices are aimed at never letting this sort of thing happen again." That is what I see as the big cultural problem. It is, "We are going to focus on following procedures. We are going to make it easier for

whistleblowers because they are our only source of information, fundamentally, and we are going to have a brigade of forensic auditors come in and weed out the under $50 000 transactions where we think there is something dodgy happening." That is not the right tone; that is not the right culture. The right culture should be, "We are going to get the best performance out of our procurement because if we get good performance out of procurement, that impacts on patient services and on health service delivery." That is the problem. It is lack of accountability and lack of purpose and direction in procurement.

The CHAIR: This is a stereotype, which probably shows that I have been out of the public sector for some time. When you talk about procurement officers, you think of some pedant in a grey cardigan who is just making your life difficult and just saying no for the sake of it. Is that another issue: that the procurement people may not be trained or are sidelined or have not got such authority or autonomy? Are those sorts of human relationship issues relevant in terms of procurement personnel?

Ms Tonkin: The men in cardigans was what procurement looked like in Queensland when I came into the field. That is an issue where you have a system that is very focused on arbitrary thresholds for this, that and the other—of following a process and making sure that everyone follows the process, and a little bit of turf protection around that. That is the sort of culture you have. Where you have a culture where you work in your organisation, you work with the program and service delivery people, they have a need for something, you work with them to find a way using the commercial skills that procurement people can bring to the table to achieve their goals and to do it better, then you have a different attitude among procurement people. You have a problem-solving attitude. You have a positive attitude because we are part of the business and we are focussed on getting the results that are needed. But when you just focus on the minutiae of process—counting the leaves on the trees—that is very dispiriting. It requires a certain personality to handle that sort of approach. But the sort of process and the sort of approach that I am talking about is actually exciting. Procurement is an exciting field.

The CHAIR: It is a bit more dynamic.

Ms Tonkin: Very dynamic and very much aimed at supporting the business.

Hon JIM CHOWN: Christine, the principal of one of the nation's largest builders once told me that he loved dealing with the Western Australian government because he knew what the cost of the infrastructure was and they did not!

Ms Tonkin: Yes that is absolutely true.

Hon JIM CHOWN: His tenders were therefore appropriate to their incompetence and the variations were like killing a fatted calf—concerning stuff. To me, that is also corruption in procurement because the government, which is dealing with public moneys on behalf of the community at large, is incompetent. I am talking all governments. That statement is a reflection on the incompetence of the system in the public service, not so much the government. I will go back to be my question. If I were God—and I am not—and I said, "Christine, how would you start a process in this state that would overcome all the deficiencies that you have described and we are becoming aware of? Where would you actually start first?"

Ms Tonkin: I would start in health.

Hon JIM CHOWN: I am not talking on a department-by-department basis, but you can expand on that. Would you get all the directors general together and say: this is the process you need to put in place within your department et cetera? How would you go about this? We can write a strong report but it has to be listened to.

Ms Tonkin: When I said I would start with health, the reason I said that is because it is the most complex case. If you can make this approach work in health, you can make it work anywhere. I suppose I am an incrementalist. I like to see people prove something to themselves, and you can prove it in health. But I would say the first thing is: take a look again at that accountability and management framework, which includes a number of risk-based internal controls, that makes the directors general, the accountable authority, accountable. I would put that in place, first and foremost, and all the things that go with it in terms of having a corporate-level procurement strategy that has clearly defined goals and objectives through which the organisation systems, policies and procedures and capabilities are optimised around the nature of the challenges and risks in the procurement portfolio. Have a procurement performance monitoring and management system in place. Have a CPO—a chief procurement officer—reporting to the accountable authority. Have the accountable authority advised on, but signing off on major contracts; they should not be just pushed down the line too far. I note that Mr Langoulant in his evidence made this point and made it very clearly. I would put in place very much the same sort of framework as I set out in my first letter to the Minister for Health. I have subsequently written to the Minister for Health, having another go, saying, "This is how your system is not accountable and I would like to see some changes made, and these are the things I would recommend." So if you could prove it in health, you could prove it anywhere.

[11.00 am]

Hon JIM CHOWN: Would you send us a copy of that letter to the committee?

The CHAIR: We have it. Getting back to, for example, health, I was a bit concerned that we have learned that the Public Sector Commission is throwing off its inquiry, effectively, to KPMG. I would think that they should have that expertise within the commission to be able to undertake their examination of the health department, so that in itself is a problem. Now, you mentioned categories before. How broad is a category? We are not talking about a light globe category or a scalpel category. How broad is a category?

Ms Tonkin: No. I had a conversation with some people in another country about the category of ophthalmological surgical equipment. That is a category. Another category might be—let me think —

The CHAIR: I suppose drug pharmaceuticals is an obvious one.

Ms Tonkin: Pharmaceuticals. Big component categories—antibiotics et cetera. When you define a category, what you are looking at is a grouping of goods or services that has a clearly defined supply market. Facilities maintenance is a category and you would be able to analyse the associated market. If you put out a tender for facilities maintenance, you would get a response from suppliers who would know what you are talking about. If you put out a tender for antibiotics, you would have a supply market. If you put out a tender for TB drugs, you would have a supply market that would be able to respond to that sort of tender. A category matches a market and that is how it is defined. Category management has been used in the private sector for the last 30 years. It has been used increasingly in the public sector, but as part of portfolio management. You could actually identify all the categories that you are buying as an organisation. You can analyse those categories in terms of the relative spend and relative risk involved and you can come up with a picture, a diagram, of the procurement portfolio. You will have different sorts of general strategies applicable to the different segments. You come up with a four-segment model and then you tweak your organisation systems, policies, procedures and capabilities around the challenges in that portfolio.

The CHAIR: How do you factor in quality? So, for example, the example you got of poorer clinical outcomes if you use one particular bit of equipment as opposed to another, that tends to be ex post

facto, like after it has been used and you get a lot of complaints. Is there any way of factoring in and convincing the people in finance that, "Yes, we will go for the third most expensive instead of the cheapest." How do you do that at the tender stage?

Ms Tonkin: You do not do it at the tender stage; you do it at the stage of developing your category-level strategy. You are looking at the qualities you want in whatever it is you are buying. So, you have already figured that out and, what is more, you have figured out the best way to approach the market to get it. There is no value added once you get to the solicitation process, and that is the problem here: all the eggs are in the basket of the solicitation process and not enough eggs are in the basket of, "What do we want to get out of this in the first place?"

The CHAIR: One of the other things that seems to be happening a bit here, especially on maintenance contracts, they tend to be for the long term and—I mean, I have heard a story of $200 change of a light globe at a fire station. That contract, I think, was renewed late 2016, so just before the new government got in.

Mr M. HUGHES: How many procurement officers does it take to change a light bulb?

The CHAIR: Exactly. There must be savings, I suppose, that there is not individual transactions and fewer bits of paper and everything else, but against that you have basically a monopoly in those areas of competition and, again, that is another trend that seems to be in the marketplace a bit at the moment.

Ms Tonkin: I do not pretend to be an expert on the facilities maintenance market, but just from first principles, what should be happening is—facilities maintenance is something that is commonly undertaken across a number of government agencies. You might bring the facilities gurus together with some procurement management expertise and say, "Well, hang on. We've got this big category. We've got a clearly defined supply market here. What are our common issues with our facilities maintenance contracts? How are we presenting ourselves to the market? Is there a way of presenting our requirements to the market? Is there a way of approaching the market that would actually address some of the limitations that we are identifying?" They may or may not choose to go together as a whole-of-government approach. They may choose to go back and go as individual entities, but they may choose to use a common approach that takes into account the sorts of issues they have identified. You would have to decide whether you go through a panel arrangement. You might pre-qualify certain types of facilities, maintenance suppliers—the electrical people, the plumbing people, whatever it is they are—and put them on a panel. You could have a situation where you set up a panel and you went for secondary bidding. You would call for bids from suppliers who were on the panel to quote on particular jobs, for example.

The CHAIR: Again, that is very much the pre-tender preparation.

Ms Tonkin: Yes, thinking through your strategy. How are we going to get what we want out of this?

The CHAIR: We are finding that in a lot of tenders agencies are trying to get out of—or having a closed tender because they have left it very late in the process and so there is going to be a gap if they do not quickly get something. That seems to be a bit of a lurk, I have to say.

Ms Tonkin: I think the issue is that they are not doing this category-level strategy development, so everything is a surprise. The accountable authority should have in front of them, on one page, an overview of all their anticipated procurement in terms of at the category level for the next 12 months. They should have that soon after the budget is framed. There should be a mechanism in place. Their CPO should know what is coming up and be able to make sure that (a) the category level strategies have been properly framed and (b) the approaches to the market are being managed appropriately. There should be no surprises. It is indicative of a system that focuses on transactional

management and not on strategic management that these sorts of delays occur. There should be no surprises.

Hon JIM CHOWN: It comes down to planning and process, really.

Ms Tonkin: Yes.

Hon JIM CHOWN: I have another question, if I may, Christine. Why is there such a variation, not across the board but on many occasions in regard to government infrastructure as opposed to private enterprise in building infrastructure? For example, if the Department of Housing built my house it would probably cost me twice as much for the same result. To me, it is a form of corruption and an absolute waste. If I went to you as a private builder, you would be able to build it for probably at least 30 per cent less with the same specifications.

[11.10 am]

Ms Tonkin: I think the problem is, as you pointed out, you said someone who is in charge of big infrastructure companies said, "I'll roll on the public sector; I can wring out the variations." It is because the public sector is not critical in its analysis of its requirements. It will bid specifications that have got holes in them. When I worked in Queensland we looked at 292 building construction projects over a three-year period and we analysed them in terms of their outcomes relative to the quantity surveyor's estimate. What we were really focused on was the quality management status of the contractor and whether or not them having a quality management system in place made any difference to outcomes. It does make a difference to outcomes. Those that have those systems in place are more likely to give you a result that is close to the QS's final estimate, on time, and delivered without defects et cetera. But what we did find in that process was the bigger companies had quality management subsystems that actually focused on wringing out the variations. They would take a statement of requirements or a statement of works for a construction project and they would take a look at it and they would go "aha". They had a really well organised system of looking at where they could wring out variations that would deliver them their profit. They would bid close to the QS's estimate, but the issue was that they would then look at how they could get their profit margin out of the variations that they knew were there in the specification because of inconsistencies, ambiguities, et cetera, which is why I was saying that one of the key aspects of procurement strategy and framing of procurement strategy is not only understanding the market and understanding the stakeholders, but critically analysing the requirement. Some requirements are uncertain, particularly in the ICT area, but you minimise the uncertainty by being very critical about what it is you want.

Hon JIM CHOWN: I am aware of something along the lines you are talking about. There is a courthouse that was built in regional Western Australia for many millions of dollars. One of the local electrical engineers actually tendered to put all the lights in the building. His tender came out, I think, at around $200 000 to do so. His specifications for all the lights were to the specifications required, et cetera. It met all the requirements; however, his source of lights was not out of the three preferred providers from that relevant department. He lost the tender. The winner of the tender cost $800 000 to put the lights in. I am also aware that in this state there are a number of departments that are happy to deal with a certain amount of people whose products they are comfortable with and understand that their quality is up to speed. They actually have a reticence to go outside in the marketplace and look elsewhere and take other things on board, or even try them, which is crazy because you would not do that in the commercial world.

Ms Tonkin: I think it is because they do not have a culture of actually looking up-front. They do not have a culture of doing that analysis. They do not have a culture of saying, "We want to get these

advantages." You have got to look and understand how to get the advantages. You have to have a knowledge base to do that.

Hon ALISON XAMON: Can I ask some questions about this? One of the issues that we have had, and you have already alluded to in talking about the directors general, is trying to get where the buck stops in relation to shifting that culture. I have a few questions. The first thing is: do you think that the Public Sector Commission should be taking the lead role in terms of driving this change down to departments? In our hearing with the Public Sector Commission, it would appear that there is a suggestion that really a lot of that role is devolved to the various departments and that that is where the responsibility lies, but of course I would think that that would contribute to that inconsistency of culture across the public sector. Can I get your thoughts on that first?

Ms Tonkin: I say that it rests with the accountable authority. The more you have in place systems that have someone else playing in the field—some things are handed off to the Department of Finance. Although the Department of Finance is very clear in its statements that the accountable authority of the department remains accountable, even if the Department of Finance is involved, the culture of being able to hand off to someone says, "Oh well, they did it; it was their advice." The buck has to stop with the accountable authority of the department. I say that the Public Sector Commission has a role to play in inculcating in the senior-most levels of the public sector the importance of accountability and accepting accountability and has to look at how people are held to account, but the actual work of being accountable resides in the departments.

Hon ALISON XAMON: I suppose what I am concerned about is particularly when it comes to DGs or commissioners, if you like, I am worried we are actually setting people up to fail. I will explain what I mean by that. If you take Health as an example. We know that we need someone who is heading it up that understands the way that Health works, that has some comprehension of clinical practice, of the way the system works, but at the same time we are also expecting them to simultaneously have these very high level governance and administrative levels of expertise. It would be the same across the board. We have got this new super department, the Department of Communities, that is obviously going to be overseeing a huge amount of activity, but you would also hope that whoever is going to head that up is going to have a comprehensive understanding of the nature of the areas that they are covering. Is it perhaps unrealistic to expect that one person can actually hold all of that expertise when appointing people into those roles?

Ms Tonkin: The accountable authority, in terms of the department head, is accountable under the Financial Management Act for the efficient and economic operation of their department. I would expect that person would be the person with the breadth of knowledge to be able to manage a government department of a degree of complexity. I am being critical of Health, but I think they do a really good job. I think the director general is highly competent; I just do not think that their procurement is managed in an accountable and highly competent manner. You can have an accountable authority who is across the field. They can be held accountable for the performance of procurement because procurement merely supports the business. We do not do procurement off to the side; procurement is integral to the delivery of the programmatic goals and objectives of the agency. Expecting a high level of performance from the procurement function in supporting the business is quite reasonable. You have an expert reporting to an accountable authority in the form of a chief procurement officer. I went to work at the International Atomic Energy Agency as its chief procurement officer, as the director of their procurement office. I do not have a background in nuclear anything, but I do have an excellent background in procurement management. Like in any business, you have procurement people who are senior people who have a great deal of experience in procuring particular categories and they are the people through whom you work.

You have capability and content knowledge within the function but you do not need to have it within specific people, and you do not need to have an accountable authority in the form of a director general who is full bottle on procurement. They need to be full bottle on what they expect in terms of the performance of their department.

[11.20 am]

Hon ALISON XAMON: You have led on to what was going to be my next line of questioning, and that is about the degree of procurement expertise we currently have within the public service. One of the questions I think this committee is trying to unpick is, firstly, whether that higher level procurement expertise actually exists. Secondly, I am personally very interested to know whether we are rewarding and remunerating sufficiently for that level of expertise. Of course, there is the other issue, particularly with smaller agencies: do they have that level of expertise as well; and, if they do not, what potentially are the best ways to be able to bring that level of expertise in? We know that we expect to have very high levels of expertise within the very large departments, but of course government is a very big entity and not all departments are equal, so do you have any thoughts about the issue of whether we are bringing in, attracting and maintaining the correct level of procurement expertise?

Ms Tonkin: I think you have the correct level of procurement expertise within the various agencies, and —

Hon ALISON XAMON: Sorry; Langoulant, of course, indicated otherwise and expressed concerns that we did not have that.

Ms Tonkin: Okay. I think the problem is that anyone with a good business degree can do this sort of work that I have just described. It is a matter of giving them the focus to do that. All the guidance that I have read from the State Supply Commission is very pedestrian. It is tick-the-box stuff; it is descriptive stuff. There is no level of analysis involved. As I said, anyone with a good business degree can do this.

In terms of varying complexity between departments, yes, the procurement task of a very small agency is very different from the procurement task within, say, the health system, but because you are focusing on the actual nature of the procurement portfolio and the risks and challenges in that portfolio under the sort of system I am describing, you scale your capabilities accordingly. You are optimising organisation, systems—policies, procedures and capabilities—around the actual portfolio. I would say, yes, you have the expertise that is necessary and I would say that procurement people would feel very liberated to be in a situation where their work was actually exciting and they feel like they are really contributing to the business and to good outcomes et cetera. At the moment, accountability is so diffused, nobody knows who is accountable and all they see is a little part of the picture, and I would say that that is very frustrating. But I would say procurement people are reasonably remunerated in this state and they have the skills; they just need the framework within which to operate.

Hon ALISON XAMON: Coming back again to where the buck stops, if we were going to put down a recommendation and say, “Right, this is where the activity commences”, where would you be pointing the finger and saying, “You guys need to get the ball rolling on this”, so that all agencies then start picking this up?

Ms Tonkin: I would say that you need a strong management and accountability framework for procurement that is implemented in each and every entity, and that becomes a policy requirement of the State Supply Commission or whoever is deemed to be the appropriate body.

Mr M. HUGHES: That would be the reform agency, so if we made a set of specific findings and recommendations, we would need to, in fact, have that not just scattered across the public service, dependent on each of the heads; they are accountable, but we need an oversight body to ensure, certainly in the interim, that the change to a different paradigm is achieved.

Ms Tonkin: Yes, that could be a project within the Department of Finance, which is the lead agency.

Hon ALISON XAMON: That is where we wanted to get to.

Mr M. HUGHES: Recruitment onto that task force as needs be.

Hon JIM CHOWN: Christine, with your experience at government level internationally and your comprehensive understanding of procurement in this state, implementing a standardised process as you have described here today—what sort of savings do you believe would be made in regard to procurement by the state? I do not want a dollar figure; perhaps a percentage figure would probably be more appropriate, and then we can extrapolate that out into dollar figures if we want to.

Ms Tonkin: I would say around the 10 per cent mark, but it depends; you need to do the analysis of the portfolio in each entity. In Queensland, each entity has their corporate procurement strategy in which they aim to achieve certain goals and objectives, so it is a roll-up from that. My experience internationally—and this is where you have real, deeply entrenched inefficiency, waste and rampant fraud and corruption—is that 20 to 30 per cent is well and truly achievable. I would say maybe 10 per cent here is achievable.

Hon JIM CHOWN: In Queensland, how long was the process from the time you became involved with your minister of the day to the implementation of a different procurement program? How long was that process and what did it actually involve to get the whole of the public service on board? A very strong minister, obviously.

Ms Tonkin: And a very strong Auditor General, too. I look to my colleagues here, who worked with me on this, I think about 12 months to get the actual policy framework in place, to do all the consultations, to get cracking on the development of all the guidance material that had to be developed. We developed a series of better purchasing guides that are in their latest incarnation in 2017, and they have not changed much; they are still very much the same as we developed them initially. We also had to develop at that time, because we did not really have one, a useful training curriculum and certification framework to support the transition to this new way of working. So we actually developed that with one of the universities, and that took, I think, 18 months to develop and set rolling. I would say that by 2002, we staged the implementation. The policy came in in June 2000. It was rolled out in a number of departments to start with and then rolled out subsequently to everyone. I would say that by the end of the 2002 financial year, everyone was working under the new system.

The CHAIR: Are there any specific reports that you were involved in in Queensland that you think are worth the committee looking at?

Ms Tonkin: Yes, there was a report that came out, I think, in the mid-2000s—2006, maybe—that was sort of looking at the initial period of this new framework. I can get you the details of that.

The CHAIR: In your submission to us you have talked about seven stages of procurement and I think you described Western Australia as being "immature" in its management practice.

Ms Tonkin: Yes.

The CHAIR: That is a good term. We apparently do not do much in terms of supply chain management—that is, 6—or value chain orientation. Can you maybe expand on that a bit for us?

[11.30 am]

Ms Tonkin: Okay. What I see is I think the various agencies focus up to level 4. Level 1 is, "We'll just obey the rules; that's the most important task." Level 2 is, "We'll make our transaction processing really efficient." We have an example of that in the HSS. Their transaction processing is really efficient.

The CHAIR: For the purposes of *Hansard*, HSS?

Ms Tonkin: The Health Support Service, the agency that provides the support within the health sector; I am sorry.

The CHAIR: Number 3 is commercial approach.

Ms Tonkin: Yes, commercial approach. That is where you are looking at risk and reward with suppliers, and that is happening to some degree, not in a very sophisticated way, but it is happening. Then there is the pooling of volumes into the market to leverage—to get economies of scale or discounting. As I said before, based on my experience of analysing the profiles of lots of different public sector entities, probably around 20 to 30 per cent of the spend in aggregate is amenable to that sort of approach. So, yes, I see evidence of those sorts of stages of development. But what I do not see is a corporate level procurement strategy being framed in much the same way as the Queensland system operates. I do not see where you have a focus on a program of service delivery. There is a little bit in the community sector, looking at how to get the best outcomes for clients from the community services sector. But I do not see, for example—and I read the Main Roads hearing transcript, and they did not seem to have much interest in understanding the supply chain of their construction or maintenance providers. They said, "Oh, well, we just leave it to the head contractor." Yes, that is right, you leave it to the head contractor, and if you want to contract with head contractors, that is what you do. But you also understand their supply chains, and you understand where you should be able to get more value out of that supply chain, so you understand that what they are bidding to you is reasonable and that they are not operating with a lot of fat in their supply chains that could be become fat on your table, not theirs.

The CHAIR: Also, generally, I think a number of government projects have fallen foul of subcontractors who have been sort of teetering on the brink of financial collapse and so that is affecting the whole life of the project. That has probably segued into due diligence, and that has to come in, presumably, in one of the early stages —

Ms Tonkin: A very early stage, yes.

The CHAIR: — and whether enough is done about that, yes.

Commercial-in-confidence is often a phrase that is used by government in terms of particular contracts. Is that used too broadly? Is there a way that we can narrow that down so there is a bit more transparency about transactions?

Ms Tonkin: There should be internal transparency in the analysis of supply markets so you know what the strategies are of the players in the market. That is your knowledge base. Yes, you might sign up a contract with someone, but the Auditor General and anyone else who needs to scrutinise the data should be able to look at the procurement strategy and the analysis of the supply market with strategies and tactics of suppliers that you have been able to identify in your research. That should be very transparent. I think the problem here with commercial confidentiality is that there is not that knowledge base that is accessible. When you slap commercial-in-confidence on something, it really does prevent anyone seeing behind what is going on. So I think it is used, and it may be or may be not used appropriately, but what is missing is the internal knowledge that is transparent internally about what is going on.

Hon JIM CHOWN: As a member of the opposition, Christine, every time I ask a question in regard to some of these matters in the Legislative Council, that is what the government tells me—it is commercial-in-confidence.

Ms Tonkin: And I am sure when you were in government, the same thing happened!

The CHAIR: The other one is legal professional privilege, and I would say, "It's your privilege; you can waive it!"

We came across the New South Wales procurement process where they were doing a lot to educate the tenderers about corruption issues, and that very much improved things. In your experience, have you been in a situation where there has been a better dialogue or understanding by the proponents of projects or the tenderers as to what their obligations and duties are?

Ms Tonkin: I think anywhere where you have a situation where you have a good knowledge base on your side and you know who the players are in the market, then you are communicating with those suppliers. You might in framing it at, say, a category-level strategy, go out and talk with them about what is important to you and what their thoughts are on this, that or the other, and you do that in a very impartial way. So it is improving the richness of information that you have at your disposal, and it is also communicating to them the importance of proper dealings with you. If suppliers know that you know as much about your demand as they know, then they are going to be reticent to do anything that crosses you, because they know that they are dealing with an informed and intelligent buyer. But where you are largely ignorant and you just rely on whatever they tell you in a solicitation process, then you are in trouble.

Hon JIM CHOWN: That is pretty much the process as I understand in New South Wales, where they went to their providers and said to them, "Until we're completely satisfied that your internal procurement processes are not corrupt, and therefore costing us money—the public money—until we are satisfied of your processes and you show them to us and we're happy with them, we won't be putting you on our list of preferred tenderers."

Ms Tonkin: It is interesting. In some jurisdictions, even in our own jurisdiction, there are very strong anticorruption regimes. I will use the example of Trinidad and Tobago, where unfortunately there has in the past been a lot of fraud and corruption in procurement, but not in their oil and gas sector. That is because those industries are largely dominated by multinationals, and those industries therefore come under the regimes and very powerful anticorruption legislation of the different countries within which they have their flagship. So they are squeaky clean, and they have to be squeaky clean, because very senior people are held accountable for any kind of corrupt behaviour. You see international headlines of big players in companies—the CEO of a major resource company—being pursued for corruption-related issues that have occurred on their watch. Companies from countries with those strong regimes are going to be very squeaky clean in their dealings.

The CHAIR: I have probably one more question. I do not know if anyone else has a final one. The naysayers will say, "You're just increasing the level of red tape and you're making things more complex, and government also moves at a glacial speed and this is going to slow them up." It seems to me that if you have a good framework, people can act within the spirit of it and it does not necessarily mean more red tape.

Hon JIM CHOWN: It could be the reverse.

Ms Tonkin: It is absolutely the reverse. It speeds everything up. One of the big problems in procurement processes is you go out to market and say, "Whoops, we've made a mistake here", or,

"Oh, we forgot about that", and then you have to stop the process. If you realise you made a mistake earlier —

Hon JIM CHOWN: It is called butt-covering.

Ms Tonkin: Yes, and then when you form a contract, you have problems because, "Oh, we forgot that. We left that out of the statement of requirements, so now we have to have a variation." If you actually do the planning up-front, it all goes very fast. If you do that category-level strategy, that then provides the overall framework and direction in which you are going, and it makes every other single process move amazingly fast.

The CHAIR: Now, the other thing is that—I do not know; again, it is probably a blight on very hardworking under-resourced public servants—where there is a will or an opportunity or a way, some public servants will be opportunistic about it. For example, you might not have been in the state at the time, but there was procurement of a new herd of cattle for the prison farm at Karnet and there were certain caps at which other processes were brought in, so this particular prison officer or procurement person was buying a cow at a time for the herd and that brought him in under the cap.

[11.40 am]

Hon JIM CHOWN: He was buying it from the same person, was he not?

The CHAIR: Yes. It seems to me that that happens a bit across the board—that people see these things as an inconvenience. Presumably, there are technologies now and algorithms and stuff that should be in the systems to pick up this sort of stuff. Have you got any comments on that?

Ms Tonkin: It is not even rocket science. You can analyse what you spend on a certain category—cattle in the prison system. You can analyse how much you spend in a year on that. You can decide: "This is how we're going to buy cattle over the next 12 months, given that we want to buy cattle over the next 12 months, and this is the general strategy that we're going to use. And, no, we're not going to buy one cow at a time; we're going to buy X number of cattle at a time because this is our requirement for the prison farm, and, what is more, we're going to be clever about this. We're going to be monitoring the price of cattle and we might say that, generally speaking, we want to go in the second quarter of the year, but we would be monitoring the price of cattle and we might go in the first quarter because we can see that the price of cattle is good at that stage." So you have a corporate strategy around buying cattle and that is known within the organisation, and then the procurement person runs their procurement process accordingly. In fact, if you are looking at the category level, you might say, "It's worth our while, it's more efficient, for us to buy this en masse as a whole category for the year because we can see we can leverage our demand in that way. Maybe do a standing offer arrangement or something of that nature, but we go to market once for that category, instead of going several times." But it just depends upon what objectives you want to achieve and what value-for-money advantages you want to achieve from the market.

Mr M. HUGHES: I think that was evidence of a management system where there was a cap in relation to the value of what the officer could procure.

Ms Tonkin: That is right.

Mr M. HUGHES: So that was actually dictating things in a perverse way.

Ms Tonkin: Yes, that is right.

Mr M. HUGHES: The point you are saying is really looking at the outcomes, which has been your story from the beginning, is the important thing and how we get there is of secondary importance.

Ms Tonkin: Yes, exactly. But it is that focus on the trivia of each and every transaction and the arbitrary financial threshold for different people doing different things that creates the problem in the first place.

The CHAIR: We are all much the wiser, thank you very much.

Thank you for your evidence before the committee today. A transcript of the hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence.

Can I say thank you for all the material you have provided for us. I highlight that you are going to contact our principal research officer if you can think of the names of any reports from Queensland or the other jurisdictions you have worked in that you think might be of use. Thank you very much.

Ms Tonkin: Thank you.

Hearing concluded at 11.44 am

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