

# **PUBLIC ACCOUNTS COMMITTEE**

## **INQUIRY INTO PUBLIC SECTOR CONTRACT MANAGEMENT PRACTICES**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 20 MARCH 2019**

### **Members**

**Dr A.D. Buti (Chair)  
Mr D.C. Nalder (Deputy Chair)  
Mr V.A. Catania  
Mr S.A. Millman  
Mrs L.M. O'Malley**

---

**Hearing commenced at 9.31 am**

**Miss JODI LOUISE CANT**

**Director General, Department of Finance, examined:**

**Miss KATHRYN INGHAM**

**Director Strategic Advisory Services, Department of Finance, examined:**

**Mr ANTHONY HALBERG**

**Director, Policy and Procurement Services, Department of Finance, examined:**

**Mrs STEPHANIE BLACK**

**Executive Director, Government Procurement, Department of Finance, examined:**

**Mr PHILIP HELBERG**

**Acting Deputy Director General, Building Management and Works, Department of Finance, examined:**

**The CHAIRMAN:** Good morning and thanks very much for coming today. I have just got a statement to read out to you. Thank you for appearing today to provide evidence relating to our committee's inquiry into public sector contract management practices. My name is Tony Buti; I am the committee Chair and member for Armadale. To my right is Lisa O'Malley, who is the member for Bicton; to my left is Simon Millman, member for Mount Lawley; the Deputy Chair, Dean Nalder, the member for— what are you?

**Mr D.C. NALDER:** Bateman.

**The CHAIRMAN:** Bateman. And also Vince Catania, the member for North West Central. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. While your evidence is protected by parliamentary privilege, this privilege does not apply to anything that you might say outside of today's proceedings. I would also like to advise that today's hearing will be broadcast live over the Parliament House website. We may later go into closed session—we will see how we proceed—and if that is the case, obviously any journalists or any media here will be asked to leave the proceedings. Do you have a brief opening statement that you might wish to —

**Miss Cant:** Yes, certainly. Obviously for the Department of Finance with the recent whole-of-government reports, the Langoulant inquiry and also the service priority review, contract management procurement is one of the things that we know as a whole of sector we need to do better at. So, the Department of Finance has the functional leadership in that area and there has been quite an amount of work that has gone on in the last six to eight months to really work with agencies to uplift, I guess, their skills. It is the beginning of work and I would not say that we are finished by any means but it really is a collaboration with other agencies for us to bring the knowledge and abilities we have to help them uplift their skills, and also to get a much more cohesive view of how contracts and procurement is done across the sector. It is very important and it is part of, as I said, the service priority review and the team here have been working flat out on basically implementing frameworks, developing frameworks, in collaboration with other agencies and we are then going into that education role. So, that is where the Department of Finance stands on this.

---

**The CHAIRMAN:** You said it is the beginning of the process. Do you have a timescale or a time frame that this process will be completed by?

**Miss Cant:** I think in terms of continuous improvement it is never going to be completed and I would say in terms of where we are at, it is never going to happen fast enough. The framework itself, I believe, we are looking to implement by 2020, to have it finalised.

**Miss Ingham:** Yes, the beginning of the framework is a set of principles. Contract management being an issue for the public service is actually not a new issue; it has been a long-term issue. We have tried a few things. Some things have fixed things at the margins but we have never really addressed the fundamental flaws with contract management within the public service. We have taken a really different approach and we have engaged with agencies to ask them what they actually need to do this better and how can we support them, rather than coming from the top down and telling them that it is important and they should do it better. So, in doing that we are currently working on a set of contract management principles which are actually finalised; we will soon launch these. That is: what good contract management looks like within both an agency and an officer. That will happen as fast as we can get our interactive PDFs up there. They are quite close to being done. The next step of this is to then look at benchmarking, because there is no point in just having a set of, "What does good contract management look like?" Now we want to benchmark where the sector is at, but at the agency level, and then identify gaps. That is the next step of this, and we are hoping to have that done by mid this year, the benchmarking bit, and then we will go out and assess agencies and tailor the training and capability development to those gaps. As Jodi has said, it is ongoing, so the next phase of rolling that out will be later this year and into 2020.

**The CHAIRMAN:** Thank you. I just wonder if the cameraman might now be able to leave the premises? Yes, good on you. Thank you very much. Put that on film.

I am just referring to page 1 of your submission and I am just wondering, can you give us an answer or explanation as to why the State Supply Commission policies apply only to the goods and services procurement and not the works procurement?

**Miss Ingham:** Yes, that is about the enabling legislation. The State Supply Commission Act very clearly only applies to the goods and services phase—that has been confirmed by the State Solicitor's Office as their interpretation of that act—so that is why we have the fragmentation. Then we have got all the works agencies—and Tony can jump in at any stage here—that have their own enabling legislation. A lot of power does come from the Public Works Act but that does not necessarily cover all of the works or agencies.

**Mr Halberg:** Yes, that is right. The Public Works Act 1902 established at that time a framework for doing works in Western Australia. Since that time a number of agencies within their own enabling legislation have been given the power to do works and so, as a result, there is no overarching legislative foundation for works procurement in WA at the moment.

**The CHAIRMAN:** Is that a problem? Do you see that as a problem?

**Mr Halberg:** I think it has been acknowledged that fragmentation leads to a lack of consistency and a lack of standardisation. There are issues around, I guess, common experiences for suppliers dealing in one goods and services framework and works framework, often with the some agencies. It limits transportability of staff—we cannot move people between the different procurement domains—and it is at one level inefficient in that individual agencies are developing their own works procurement frameworks, as the Department of Finance has for the works that we do, then Main Roads and the other works agencies will develop similar frameworks. I think it is generally acknowledged, from my perspective, there is certainly room for improvement, absolutely.

---

**The CHAIRMAN:** Just in regards to page 1 of your submission again, why is it that the SSC—the State Supply Commission—policies apply only to public sector entities and not to government trading enterprises?

**Miss Ingham:** That is again a legislative issue. So, all your government trading enterprises have their own legislative backing which gives them powers to do things. The State Supply Commission Act does not trump that piece of work. It might be worth me just quickly running through what is happening in the public sector reform program now? We have both a project that is specifically looking at GTEs and reforming that, and it is likely to be umbrella legislation, so that is what will give government the ability and actual legal backing to start having certain whole-of-government policies apply to GTEs. That is being worked through and I think that will probably be going to Parliament last this year—I cannot remember the exact date. That is not us; that is being led by Treasury but we are working closely with them. We are also running with a procurement reform program that is looking to deal with the fragmentation issues that Tony has addressed, to bring in a single procurement framework that we can start to drive consistency. As you would all know, the JCCCC—it has got lots of Cs—the joint consultative committee —

**Mrs Black:** Joint standing committee.

**Miss Ingham.** Thank you. That one that is looking at corruption. You can use some examples like North Metropolitan Health: where you have more inconsistency and complexity in a system it is easier for misconduct to occur. That is also one of the things that we are trying to address through that reform program.

**Mrs L.M. O'MALLEY:** My questions relate to partial exemptions and exemptions. If I could start with kind of getting some information around the reasoning. What was the reasoning for originally allowing the partial exemption of agencies from section 19(1) of the State Supply Commission Act 1991?

[9.40 am]

**Miss Ingham:** Okay. The partial exemptions are the way that the State Supply Commission gives powers to agencies to buy in their own right. If we did not have those exemptions then basically the State Supply Commission—so, the commission itself—would be the only entity within government that could procure goods and services. It is a bit of a nightmare if you have only got one entity buying for everyone. That is what the partial exemptions are about. They are a handy tool according to me—although some of my colleagues in my team think differently—because we can put things in them. We can put conditions and requirements on agencies so, as part of the receiving of a partial exemption, they need to report to us and they need to put things on to Tenders WA, things like that. It is just the tool that gives them the ability to buy—did you want to know about total exemptions?

**Mrs L.M. O'MALLEY:** If you would not mind, yes, that would be good.

**Miss Ingham:** Yes, we have looked into that and what the rationale was for giving those total exemptions, and there is no—we do not have a good answer for you in terms of why that decision was made at the time that the act was enacted.

**Mrs Black:** Most agencies have a partial exemption to be able to purchase, without involving the Department of Finance, up to \$250 000. There are four agencies that can procure an unlimited amount without involving us. They still have to adhere to all the policies of the State Supply Commission, but they do not have to involve us in their procurements.

[9.41 am]

**Mr V.A. CATANIA:** Which agencies are they?

---

**Mrs Black:** Main Roads —

**Miss Ingham:** ICWA, the Insurance Commission —

**Mrs Black:** The Insurance Commission.

**Miss Ingham:** PTA.

**Mrs Black:** Public Transport Authority and —

**Miss Ingham:** No, I am not remembering the fourth one.

**Mrs Black:** We will have to get back to you on the fourth one.

**Mrs L.M. O'MALLEY:** Just further to that, do you know if this approach is common across other states and jurisdictions?

**Miss Ingham:** The approach of the partial exemptions?

**Mrs L.M. O'MALLEY:** If this approach is utilised in other jurisdictions, like the partial and total exemptions?

**Miss Ingham:** There is not one single common approach to how agencies are given that power to procure. Some will not have a partial exemption; they will just have an act like the State Supply Commission Act that clearly says that that is what gives agencies powers. It is something that we are currently reviewing as part of the procurement reform, as to whether we still want to have an act that has partial exemptions or just have everything in the act.

**Mrs L.M. O'MALLEY:** Part of my question was in reference to other jurisdictions in other states. Are you aware of other practices elsewhere?

**Mrs Black:** Yes. So, as part of the procurement reform program, the end result of the procurement reform program will be that the Department of Finance will be the functional leader for all procurement not just goods and services, as we are now, but also works. We have a team that is reviewing what happens in other jurisdictions and they are talking to other jurisdictions and getting best practice, collaborating with agencies and other stakeholders—unions, and agencies that do works and agencies that use Building Management and Works. That collaboration and the research that we are doing will lead us to develop a single procurement act that will be workable and far more efficient, as Tony said, than what we have now.

**Miss Ingham:** I can come back to you on interjurisdictional analysis, because we have done it and I feel like I have read it 50 times. Unfortunately, I cannot give you the specifics, but we can provide that to you if you would like.

**Mrs L.M. O'MALLEY:** Yes, that would be good.

**Mr D.C. NALDER:** Just on the points that you were making and establishing this contract, what visibility do you have on the financial reporting of every agency in the state government?

**Mrs Black:** We do not have this ability other than we can read their annual reports. We do not have direct visibility as Treasury does. As far as contracts of agencies under the State Supply Commission, they do independent audits once a year, generally, and we review the findings. So we set the parameters of the audits and we review the findings of those audits, and if we pick up systemic issues we address them.

**Mr D.C. NALDER:** But only if you pick up systemic issues. Is there financial reporting to the Department of Finance in the responsibilities it has, or may have, in contract management moving forward? Is the financial reporting adequate from a state perspective or should there be more

---

consistent financial reporting to Finance to support them in the works that they undertake? Should there be a standard of financial reporting across government agencies to support Finance?

**Mrs Black:** We do get financial information about their contracts because they are required to enter those details into our Tenders WA system, so we do have access to the high level amounts spent on contracts and variations.

**Miss Ingham:** The estimated amount; not the actual amount.

**Mrs Black:** Yes, and any variations to their contracts.

**Mr D.C. NALDER:** Five years ago I asked the Department of Finance how much the state was spending in ICT.

**Mrs Black:** Yes.

**Mr D.C. NALDER:** The response I got was, "We can't identify that".

**Mrs Black:** That is right.

**Mr D.C. NALDER:** It required an audit to be undertaken, which PWC undertook. They advised that, "We don't know what the state spends on ICT because of the different ways that everybody reports everything." Their estimation was that the state was spending somewhere between 1.6 and \$2.4 billion a year on ICT.

**Mrs Black:** Yes.

**Mr D.C. NALDER:** That will be a pretty serious contract area from a performance management perspective, so I ask the question: if that was the situation five years ago, where we had no idea, do we still have no idea; and, how can you be confident that departments—big departments like the Department of Health in particular—are actually compliant in their requirements and their responsibilities?

**Mrs Black:** The way that IT is procured now is different than it was then, because of GovNext. Agencies are currently procuring services rather than infrastructure, and there are three main contract suppliers. There is a central agency within the Department of the Premier and Cabinet that manages the relationships and the contracts between government agencies and those three suppliers. There are also common-use arrangements that we run for mainly ICT services and related stuff like telecommunications. We do have data on how much is spent on that. It is getting better, but I appreciate what you are saying.

**Mr D.C. NALDER:** Would it not be advantageous for the Department of Finance—I am trying to help—that the state had a standardised financial reporting —

**Mrs Black:** Yes, it would.

**Mr D.C. NALDER:** — on a monthly basis that was actually provided to the Department of Finance, so that you have someone who is looking out the rear-view mirror, or the rear-view window—having a look out the back—as opposed to doing economic modelling and forecasting and budget setting, which is what Treasury primarily seems to do? Is there something that we could do to help support the Department of Finance have better visibility on the financial reporting, such that it makes the whole procurement and contract management a lot easier?

**Mrs Black:** Possibly.

**Miss Ingham:** We are talking with the contract management intergovernmental steering group—I think I have got that right; it has got a really nice acronym—about those sorts of issues. We are very much at the start of it, and we are talking more from an agency level that they need to be looking at their financials and where they are spending money and doing supply tracking to see if all their

spend with a supplier is on contract, to pick up some of those things. We have not got to the point of talking about whether or not it should come to Finance for us to actually audit it and provide that advice. I do not actually have a strong view; it is not something we currently do now.

**Mr D.C. NALDER:** The other thing is it is standardised financial reporting, so all agencies report in the same format and the same manner so that you do not read one and do not have a clue what the next one is saying and you have to go in and dig every time. It just seems crazy.

**Mrs Black:** We do have some work that we are doing now on ICT services contracts and temporary personnel contracts, and we are requiring all agencies to provide us their data on a quarterly basis of exactly what they have spent on temporary personnel and ICT services, with a view to ensuring that there is not misuse or overuse of contracts of service. That work is ongoing. As a result of that other light being shone on that, there has been a significant reduction between the previous year and last year on the use of temporary personnel contracts and ICT services' contracts. So, you are right: if you shine a light on it, it gets better. That is what we are attempting to do.

**Mr S.A. MILLMAN:** But is that not piece by piece? Sorry, chair.

**Mr D.C. NALDER:** Yes, it is audit by audit almost, is it not?

**Mr S.A. MILLMAN:** Yes, is that not necessarily just piece by piece when you say that you are looking at this; whereas, under Dean's proposal, if you had a rubric or a mechanism by which you would naturally get those efficiencies because people would be required to report in a standardised way?

**Mr D.C. NALDER:** It is simpler to audit, too.

**Mr S.A. MILLMAN:** Yes, much simpler to audit; so much more standardised reporting and much simpler to audit. I am not an accountant, but it does not seem to me as though that is a radical leap of logic to arrive at that conclusion; would I be wrong?

**Miss Ingham:** No, it is not, and I think it is fair to say government tried to do that with the Office of Shared Services.

**Mr D.C. NALDER:** It was stated openly.

**Miss Ingham:** It was something they were trying to do.

**Mr S.A. MILLMAN:** Yes.

**Mr D.C. NALDER:** It was stated openly. I will state it on record that the principle of that is correct.

**Miss Ingham:** Yes.

**Mr D.C. NALDER:** It is the fact that implementation was done poorly.

**Mrs Black:** Yes.

**Mr D.C. NALDER:** You had agencies and departments dual-reporting on it and creating dual systems; so, it was flawed through implementation, not necessarily strategy. Would you agree with that?

**Miss Ingham:** Yes.

**Mrs Black:** I ran the decommissioning of shared services and I would agree with that.

**Mr D.C. NALDER:** I know it was initiated by Labor, but I am not criticising the concept of what that was trying to achieve. It failed through implementation.

**Mrs Black:** If all agencies had the same accounting system, life would be a lot easier.

**Mr S.A. MILLMAN:** That is the answer that we are after.

---

**Mr V.A. CATANIA:** With that, if everyone had the same accounting system, have you worked out what the potential savings are overall for government in this area if you were to bring it all under one umbrella?

**Miss Cant:** No, we have not done that work. There is certainly some work in the public sector looking at the possibility of agencies using the same system on a number of things. There is a group buy at the moment around an HR system. There is no doubt that if people were on the same system, it would be simpler to use, it would be easier to transfer and train staff, but the numbers on all those systems have not been calculated.

**Mr V.A. CATANIA:** That surely is an economic benefit to the state by bringing it all under one practice; would that be right?

**Miss Cant:** I think potentially it could be, yes.

**The CHAIRMAN:** As Simon said, Dean's suggestion or approach seems incredibly sensible and logical. Vince has a question also to you. What is the problem? Why are we not doing it?

**Mrs Black:** We do not have the authority to —

**The CHAIRMAN:** No; I know it is not you.

**Miss Cant:** Are you saying why is the whole of government not doing it? I think it is something that the whole of government will get to, but it is probably toe in the water around the Office of Digital Government and bringing together, as Steph said, and talking about all of the agencies using the same contract. It is the first time that it has been set up that way and I think the benefits are still to be realised and make it real, because it is a big piece of work taking agencies that have been using—I do not know how many finance systems out there, but if there are 10 finance systems, it is a big piece of work where people have got contracts in place. You have got to wait until the end of the contracts and then align them and then get them to agreed requirements. I think it certainly logically seems to be the way forward and I think there has been good discussion and some projects like the HR system that is putting a toe in the water. There is no magic wand that you can go, "Okay, now we're all on the same finance system."

**Mr S.A. MILLMAN:** There are a couple of readily identifiable problems. Miss Ingham, you said that there were obvious fundamental flaws in the process in your answer to one of the earlier questions. Mr Halberg, you said that there is room for improvement, particularly with the fractured nature, in answer to some questions about the State Supply Commission, the fact that we have State Supply Commission legislation and then you have a whole bunch of other pieces of procurement legislation that are agency-specific. Do you not want to build from the ground up by consolidating the legislative framework under which you all operate so that you can say, "All right, here are some fundamental tenets that are not negotiable that should be applied across"? Can I ask these questions, if people agree with that proposition?

**Mrs Black:** Yes, that is what we are working towards.

**Mr S.A. MILLMAN:** Great. Consolidation in a new piece of legislation with the procurement possibilities that you have in the State Supply Commission Act, together with the other procurement authority that you have in the Public Works Act and all the rest of it, into one overall procurement act would seem to me to form—you are nodding again —

**Mrs Black:** That is what we are working towards.

**Mr S.A. MILLMAN:** That is an unarguable proposition. You say you are working towards that. Is that the review that is being run by Treasury or is that a review that is being run by you guys?

---



**Mrs Black:** No, we are running a reform program—the public sector reform whole program. One of the top 20 priority projects is procurement reform. We are running that. We are in collaboration with other agencies, but it is our project. The end aim of that is to establish Finance as the procurement function leader for all procurement, including works, and to have a more consistent approach to goods and services and works and set standards that agencies will be required to follow.

**Mr S.A. MILLMAN:** Brilliant; thank you for that answer. That is exactly what I was hoping you would say. In the setting of standards, then, as part of that process, you would give consideration to Mr Nalder's suggestion on reporting standards and accounting standards as well, or is it only for the procurement of the goods and services; it is not necessarily for the reviewing?

**Mr D.C. NALDER:** Compliance.

**Mr S.A. MILLMAN:** For the compliance.

**Mrs Black:** In goods and services, we do some compliance checking, but it is pretty basic around conduct and adherence to State Supply Commission policies that may be broadened under the procurement reform, but at the moment the financial status of agencies probably is not high on our list.

**Mr S.A. MILLMAN:** So it is not a high priority? What other impediments are there? You wanted to answer the proposition as to whether it was a high priority or not.

**Miss Ingham:** Not so much that it is a high priority. The way that we are going to structure the single procurement framework is with legislative backing that will give us the ability to pull in things like this if it is the decision of government to do it. It is being set up in that way. It is not on the list at this point in time, but for the purpose of the definition of "procurement" for us, it is an all-encompassing term right from planning all the way through to contract management. We will have a single procurement framework that covers all aspects of procurement, which is where contract management sits.

**Mr S.A. MILLMAN:** We are not the government. We see that this procurement review is being undertaken and coinciding with that, or running parallel with that, is this inquiry to try to identify areas that the government might not identify but we as a committee think are worth pursuing. It may be that one of the things we suggest is that when you have that framework, a standardised accounting system would be useful for financial reporting requirements so that as well as doing the procurement, as well as entering into the contract, because contract management is the touchstone, which we seem to do well, the government has a line of sight into the contract and into the risks that the government faces during the delivery of that contract over the life of that contract. Do people agree with that proposition?

**Mr Halberg:** Could I just ask, when you talk about financial data or financial reporting, are you talking about the financial operation in its entirety of an agency or are you really focused on the financial data around a contract?

**Mr S.A. MILLMAN:** Yes. My main concern in the context of this inquiry is: is the contract simpliciter the contract per se? I cannot think of any reason, if we improved that financial reporting, that we would not apply that to the agency. I might be completely wrong about this, but if you have good financial reporting on the way in which a contract is being discharged by an agency, naturally you have good cultural practices, good professional practices in the agency to report that financial data on that particular contract. Axiomatically, that is going to flow through to other reporting requirements on that agency, is it not?

**Mrs Black:** When Shared Services was formed, one financial system was an Oracle system and that was run centrally, so it applied to all agencies, big and small. When Shared Services was

---

decommissioned, it was too expensive for each agency to have Oracle as their financial system, because small agencies do not need a large system and it is very expensive. Some agencies went to smaller systems, a few agencies stayed with Oracle and some went into medium-sized systems. It probably should have been, in retrospect, that all agencies were required to use the same chart of accounts in whatever system they went into, because that would have made it easier for reporting and uploading reports to different agencies. But agencies all do report financially through Treasury as well, so it is possible. As Kate said, we are building a framework where we will be able to get that information. It would be far more efficient if everybody used the same chart of accounts or the same system even. That is not probably possible in the short term, so it will be less efficient, but we still can and do get financial information from agencies on their contracts. The standardisation of how agencies do procurement will also require them to maintain better records. The Langoulant inquiry found that record keeping was pretty poor across the board and we are requiring them now to keep better records so that we can collect that information and analyse it.

[10.00 am]

**Mr S.A. MILLMAN:** The other benefit that seems to me to be derived answers one of the points that Mr Halberg raised earlier in terms of the difficulty moving people between domains, because there are different requirements. It seems to me that if we want to work well as a government and we want to build capacity—I think, Ms Ingham, you made the point really clearly about good contract management by agency and by officer. If we have got somebody we can shift between different projects, for argument's sake, because we have got a standardised system across projects, we can take a Mr Philip Helberg and we can apply him to this project, because he has got all of the—the Langoulant inquiry identified that there was a deficiency in government capability or public sector capability in this field. It might just be that we have got the right people, but they are not working in the right spots, so if we could move towards standardisation, you can much more readily deploy people. Am I summarising what you are saying correctly, and do you agree with the proposition that I am putting?

**Mr Halberg:** I do, yes.

**Mr Helberg:** Yes.

**Mr S.A. MILLMAN:** Well, so far, so good, and not particularly controversial.

**Ms L. O'MALLEY:** I have a comment, I guess, following on from what Simon is talking about here, and that is on the commonality of platforms. You can identify some of the risks. You spoke earlier about financial challenges, around having a common platform, and the reference was Oracle. In having these common platforms, can you identify any other risks that could be associated with that?

**Mrs Black:** It would be almost entirely financial, and if you centralise—I think there is a general agreement that nobody wants to do shared services again, as it was done. I am not saying it will never happen, but, as it was done.

**Mr S.A. MILLMAN:** Can I interrupt you on that point? Is it the implementation of a shared services as it was done? Like, are people resistant to the philosophy, or are they resistant to the practice?

**Mrs Black:** Look, as I said, I did the decommissioning of shared services. Pretty much every agency was okay with the way the financial systems worked in the centralisation. It was the HR systems that were problematic, especially because in shared services there were other services, called TaxAssist and CFO Assist that help with fringe benefits tax and a bunch of other things that then smaller agencies struggled to do by themselves. But the only way it would work to have a large system running all of government would be in a shared services situation, or similar to GovNext, where you have a single contract and each agency has its own instance of that, but, again, all agencies left

Oracle and bought new systems, or stayed on Oracle, and so it would be very expensive to then to put all that aside and bring in new whole-of-government systems.

**Mr D.C. NALDER:** I just want to touch on the change management. My interpretation through the decommissioning process was that the failings were around the implementation, but it was really lack of understanding around the change management that was required.

**Miss Cant:** Culture, I think—it was as much about culture as anything, I would say.

**Mrs Black:** Yes.

**Mr D.C. NALDER:** I feed the cultural aspect into the change management and accompanied with—the shared services tried to, in the vernacular, eat the whole elephant in one bite, and did not break it down into bite-size pieces. If I take IT, for example, look at data centres and separate them out from operating platforms, people were trying to actually move to a common payroll system without addressing the number of awards that exist in the state.

**Miss Cant:** Yes, that is right.

**Mr D.C. NALDER:** So there were all these things where they were looking at in globo and trying to find a solution like that instead of going, “Right, that’s where we’d like to get to, but we’ve got to start down here with this piece.” Is that a fair assessment?

**Mrs Black:** Yes, and I would say, from my experience, and it is just my opinion, that the financial side worked well; the HR system itself was flawed, and all it did was meet the fears of all management in all agencies that this will not work, it did not work, and thus the collapse of the whole.

**Mr D.C. NALDER:** So, taking that learning from shared services and applying it to contract management, are you building in the cultural issues and the change management that would be required and making sure that we do not repeat the mistake by trying to find an in globo solution, and just going, “Here it is, off the shelf” and not break it down into bite-size pieces that can be implemented well? Is that change management element —

**Miss Cant:** Yes, I think, because we are starting with a collaboration—it is actually a collaboration with agencies—you start all together, as opposed to, “Here’s the book and we’ll bash you over the head with it until you do what we want you to do.” I think it is starting from a much more collaborative space and understanding what the key principles are so that we can simplify it, so you are not taking a flawed business process and taking it forward. Is that a fair summation?

**Miss Ingham:** Yes.

**Mr D.C. NALDER:** Yes, so just on that, as part of your framework for contract management, do you have a piece dedicated to implementation and change management? Do you have a framework for this contract management that actually talks about all the steps that you will go through, which obviously include implementation and rollout, which should have financial reporting and all of these things that go with it? Have you designed a framework that we can see as to how this will progress this project around contract management across the state?

**Miss Ingham:** What we could provide you with is the plan for what we do in the contract management intergovernmental steering group. I cannot do the acronym properly, so I am not going to use it. So we can provide you with that. It is very much at the start. Everything that is within that is what we are calling a contract management framework, but there is a whole heap of stuff that we still need to work with agencies to flesh out, so I do not have the answer for you, because we are very much collaborating. What we do have now is a set of principles which they have agreed on; now it is going to be about how we operationalise that and support agencies to implement it. I am happy to provide that.

---

**Mr D.C. NALDER:** It would be good if we could get that.

**The CHAIRMAN:** Yes, it would be very good if we could get that, if it is possible. Can I refer you to page 13 of your submission, and a few telling paragraphs under “Managing commercial and performance risks”. It states —

Finance is aware of anecdotal and other information leading to the conclusion that there is significant failure to manage contracts appropriately in the sector, there are suppliers that do not perform to the required standard and are not penalised (and may even be re-engaged). There are numerous contracts that result in the Government taking a disproportionate amount of the risk involved in a project or service delivery, and failure to manage suppliers and contracts results in poor value-for-money outcomes.

There is documented evidence of this also — for example, the Department of Health’s contract with Fujitsu ...

The ability to properly manage a contract and the performance of the supplier relies on the strength of the contract itself and the capability and capacity of the nominated contract manager.

I think those are pretty strong words that you have used, and thank you for being frank and honest. This whole inquiry is about contract management, obviously, but there is an issue about the actual contract as well. Can you maybe elaborate on those very telling paragraphs?

**Miss Ingham:** The other area that is often not focused on enough is procurement planning, and we are often in a rush. It could be due to the budget process. It could be due to the fact that we did not realise our contracts were about to expire—quick, quick we need to get a new one. If you do not spend enough time on planning it, you are not going to get really clear about what you need to buy, so then your specifications are not good enough, and they could be a bit too broad, which is where, when you get to contract management, if you try to performance manage a supplier where you have not made it really specific what you needed, good luck. That is what that is about. The other conversation we are having with the steering group is that to do contract management well, you really have to do the first bits of the planning well and allocate sufficient time and resource to doing that, and not just react and you need to get a new contract in place.

[10.10 am]

**The CHAIRMAN:** If I was reading those three paragraphs, I would come away not very confident at the moment in the system that we have in WA. Would I be correct in that view?

**Miss Ingham:** Yes.

**The CHAIRMAN:** So we are working very hard to change that, are we?

**Miss Ingham:** Yes.

**The CHAIRMAN:** Is that something that you have initiated or has that come from somewhere else—that the problem had been identified?

**Miss Ingham:** As I said at the beginning, this is not a new issue. I previously worked in the State Supply Commission and ran a series of capability audits on contract management within some of the biggest agencies. That was eight or nine years ago when I was at the commission. It has been an issue since then. As I said, Finance has tried to do a few different things. It has played in the margins; it has not had a big enough impact. We are now completely turning it around. Instead of being a central agency that tells other agencies what to do, we actually want to hear from other agencies why it is that this is happening and why they are not getting better outcomes, and then address that.

---

**Miss Cant:** I think the change, too, is that while Finance was trying to do some things, there was quite a lot of passive resistance from agencies in the past. I think it is fair to say that the Langoulant review and the public sector reform work has actually backed up what Finance had been saying for some time. Because of the scrutiny and the information those reports have brought, the conversation that Finance can now have is a much more engaged one, because the other agencies are actually listening better. I think that is a fair comment.

**Mr S.A. MILLMAN:** Thank you for raising that point, because it pertains to a question that I was going to ask Mr Halberg from earlier on in terms of the room for improvement that you identified in the consolidation. In those discussions, have you seen any resistance from agencies to the consolidation of legislation? Obviously, if what you are positing comes to fruition, then Finance becomes the department that is primarily responsible for procurement.

**Mrs Black:** Procurement policy, not actual procurement.

**Mr S.A. MILLMAN:** Yes, okay; procurement policy. It still puts you in a very good position, particularly vis-à-vis other agencies who might have a bit of autonomy at the moment in doing their procurement. My personal concern is that we have seen the flaws in those agencies who lack the capability doing the procurement, so I am in favour of Finance having the responsibility for the policy. I am just anxious that there may be agencies who will see this as a loss of their autonomy. Are they resistant to that change? Who wants to handle that question?

**Mr Helberg:** I can probably answer some of that in terms of our experience so far. As part of the procurement reform project, we have established what we call a works agency council, which is our attempt to bring together all the major works agencies. Because works in particular is even more fragmented in terms of how it operates because of the enabling legislation, we have brought together this group to try and discuss synergies, I guess. I guess the initial reaction we got was that it is impossible to try and standardise everything across roads, rail, buildings and all sorts of works procurement. I think that is a justified view, myself. The important thing is that we focus on what can be standardised and what makes those things unique, and to differentiate between those two things, so that we focus on the high-level stuff and make sure that we can actually be more consistent in how we approach that. Contract management is one of those things.

**The CHAIRMAN:** You can have a standardised overall policy, though. That should not be too much of a problem.

**Mr Helberg:** Absolutely, yes.

**Mrs Black:** And principles. We are drafting ethical procurement principles now as well as part of the reform. That will be applicable across the board.

**The CHAIRMAN:** I go back to the comments by Miss Ingham and Miss Cant in regard to the question I asked previously. You said that this is not a new problem—eight or nine years. You said there has been kind of a change, you think, but there is still passive resistance. Eight or nine years ago you tried, but did not succeed.

**Miss Cant:** Just to clarify on the passive resistance, I think in the past there has been passive resistance. What I would say, and in line with what Phil is saying, is that I actually think now it is much more collaborative and much more cohesive. I actually see less resistance now than there was five years ago. Recognising that there are some things that will be difficult to standardise, I think there is a general acceptance and understanding, certainly at the director general level, that we actually have to do better at this and we have to sign up.

**The CHAIRMAN:** Okay. So my question is: are you confident that you are going to be able to overcome those problems that you outlined in the paragraphs that I read out?

---

**Mrs Black:** I will let Kate talk about the contract management skill building, but also part of the reform will be reviewing how we can better manage supplier performance. That is something that I have had personal experience of—going into an agency and having to work with contractors that are not performing. But because the contractor was poor, as Kate said, you cannot tell them. At the moment, there is a risk that you get rid of them and someone else hires them, and no-one knows that they were not a particularly good performer. I have seen that. That is something that we need to address through our reform program about the performance of suppliers, and how we do that and how we share information. That is part of what we are looking at in the reform.

**Miss Ingham:** In terms of our level of confidence, I think the definition of insanity is doing the same thing multiple times, right? We have got the same issue and we have tried a few different things. We are fundamentally changing the way we are approaching it this time, at the same time as we are going down the path of consolidating and simplifying the whole procurement framework, so it is a very different approach that we are taking. The one thing that I am still feeling slightly uncomfortable with and we have not really solved is how we make contract management a priority for agencies. You talked about capability, and that is one part—making sure people are actually capable of managing their contract. But to be honest, it is often capacity. Within agencies, there is often not sufficient capacity to manage them well. You might have one person who is responsible for managing 50 contracts. The reality of that is that they are just doing admin; they are just paying bills and ticking off things. They are not actually getting the most value out of that. In other situations you might have someone who is a policy officer who happened to be part of implementing a contract and who then has it added to their role. They are busy making sure they are achieving really good outcomes in the policy space and have not got sufficient time to work on the contract management. That is still outstanding for me.

**Mr V.A. CATANIA:** In terms of resourcing to be able to get to that point, the Office of Shared Services cost the state quite a bit of money. What budget is being allocated to actually try to achieve some of the goals that you are setting out? Do you have one?

**Miss Ingham:** No, we are doing it within current budget allocations. I do not actually think that creating a resource that sits centrally to contract manage on behalf of government will work either. You have to be dealing with the suppliers and the thing that you are buying on a day-to-day basis. This rests with agencies. It is about how to ensure that agencies have sufficient capability and capacity internally to achieve good outcomes.

**Mrs Black:** That they make it a priority—that they understand it should be a priority.

**Mr D.C. NALDER:** What percentage of contracts would fall within the responsibility of the agency, excluding Main Roads and those that have their own ability to run contracts, and what Building Management and Works undertake?

**Miss Ingham:** Sorry; I do not quite understand that question.

**Mrs Black:** Agencies are 100 per cent responsible for managing their own contracts.

**Mr D.C. NALDER:** But Building Management and Works undertakes a lot of the works for agencies.

**Mrs Black:** Yes.

**Mr Helberg:** Because we do not have oversight as to what other works agencies procure, we do not have a figure that I can give you to suggest what proportion is delivered by Building Management and Works and Strategic Projects.

**Mr D.C. NALDER:** Just for an example, what contracts are agencies undertaking that is not going into Building Management and Works?

---

**Mrs Black:** Their goods and services contracts, so their IT contracts, their contracts for audit, community and services contracts.

**Mr D.C. NALDER:** So Building Management and Works is more around infrastructure, is it?

**Mrs Black:** Yes.

**Mr Helberg:** But even then, there are agencies that have enabling legislation that allows them to procure up to a certain amount, for instance. So there are still situations where different agencies can procure works, in particular, themselves.

**Mr D.C. NALDER:** I understand Main Roads and PTA, because they have got the expertise.

**Mr Helberg:** Even the Department of Health. There are agencies that can procure buildings. The Department of Housing, the Department of Communities, the Rottnest Island Authority—there are various smaller agencies that can actually procure on their own.

**Mr D.C. NALDER:** Is that being looked at as part of this review as to whether it should or should not, or whether Building Management and Works should be doing more than it currently is? Is that being considered at all?

**Mr Helberg:** Part of the reform will look at whether a devolved model is the best model, as opposed to a more centralised model, and whether we should differentiate between different agencies based on their capacity and their capability to procure and provide an oversight role, rather than take on that function ourselves. That will all be worked through as part of the reform program. But it is a valid question, because it is one that we have been asking ourselves for a long time.

[10.20 am]

**Mr S.A. MILLMAN:** But it seems to me within the public sector, we have the capability to deploy people on secondment or what have you in the event that it is required.

**Mr Helberg:** Yes.

**Mr S.A. MILLMAN:** I agree with your point. I disagree with Vince's point that you want some centralised system, and I think Dean agrees with me as well, but in terms of that, the State Solicitor gave us evidence in the Perth Children's Hospital inquiry that he was of the view that the contract that the state government had entered into with the builder for building the Perth Children's Hospital was actually very beneficial to the state and the problem was—the magical term that you used—that the contractual levers that were available to the state to manage that contract were not deployed, so even though the contract had the right terms, the person responsible for the state arguably did not use the contractual levers that were at his disposal in order to make sure that that contractor worked for the benefit of the state, so the question then is a capacity question, and how do we make sure that the best—I am going to use your words; you said “good contract management by officer”—how do we make sure that the right officer is on the right contract?

**Miss Ingham:** Part of the benchmarking that we are talking about doing is going to map, so you will have your cookie-cutter contracts that do not require a whole lot of time or someone highly capable, all the way up to your Serco contracts with Fiona Stanley Hospital. Part of that benchmarking is making sure that you do not have someone who is capable of dealing with Fiona Stanley working on a half-a-million-dollar contract for something that is off-the-shelf.

**Mr S.A. MILLMAN:** Yes, precisely.

**Miss Ingham:** It is part of it. We have not solved that issue yet.

**Mr S.A. MILLMAN:** How many project managers does the State Supply Commission have?

**Miss Ingham:** The State Supply Commission does not have any staff.

---

**Mr S.A. MILLMAN:** Sorry, that is right. That is my next line of questioning.

**The CHAIRMAN:** Yes, can we leave that question?

**Mr S.A. MILLMAN:** Oh, leave that question? But can somebody ask the question about, is there something like 26 project managers? Strategic projects.

**Mr Helberg:** The figure varies. As the program scales up and down, obviously that figure varies. But it is in the order of between 26 and 55, to give you a range in recent times.

**Mr S.A. MILLMAN:** What do you do with these people? Are they sitting in a block somewhere that you just grab? Are they contracted in? Where do you get them from? My number one concern is that the government needs to have the capacity to avoid problems like Perth Children's Hospital from occurring because there are capable people somewhere within the purview of the state government who can be deployed to fix these problems when they arise.

**Mr Helberg:** I think the model is a good one. That particular group you are talking about is a mixture of permanent public servants and contractors, mostly from the private sector, to deliver a particular significant project like the stadium or PCH. There is a term to their engagement and, to be honest, some of those people do not necessarily have the desire to work in the public sector permanently. It is a mix. In BMW, we have a similar group of people—around 50—who are probably more stable in terms of their tenure within government, and certainly, as part of procurement reform and that model of functional leadership, we are looking at a way of outplacing certain project managers, especially when our works program tapers off. As it fluctuates, it creates capacity where we can make it available to other agencies.

**Mr S.A. MILLMAN:** That is my point from the previous question about works capacity beyond building management and works.

**The CHAIRMAN:** Did you want to add something to that?

**Miss Ingham:** It is probably also worth adding from a goods and services perspective that we ramped up and created a team called strategic projects support services. It is a small team that is specifically for that, so it is a team of highly skilled procurement people who we second out to agencies for some of their complex projects that have a bit of a procurement flavour to them, on the understanding that it is ridiculous to suggest that every agency should have the ability to establish a Serco contract sitting within their organisation. As Phil has indicated, that is something that we are looking at through both our own internal structural review of finance, but also as part of the reform program.

**Mr S.A. MILLMAN:** What capability do those people have to feed back into the contract drafters their first-hand experience of how the contract management has gone? I am a solicitor, so I will be careful what I say, but it is all very well for the State Solicitor's Office to come along and say, "We're drafting these fantastic contracts", but they need to be constantly improved, so if people can come back with their first-hand experience of the problems they had in managing their contracts, and feed that back to the State Solicitor's Office so that we can continue to tweak our —

**Miss Cant:** Almost like lessons learnt.

**Mr S.A. MILLMAN:** Lessons learnt, exactly.

**Mr Helberg:** It is an ongoing process for us because we in BMW rely heavily on a particular form of contract for the majority of our projects, and there is a continuous feedback loop with the State Solicitor's Office to improve that contract, especially as we deal with disputes and the like. Where there are certain deficiencies within that contract, we try to strengthen it, but in consultation with the SSO.

---



**The CHAIRMAN:** Can we go back? A few questions ago Simon asked about the State Solicitor providing evidence before the Perth Children's Hospital inquiry that he thought the contract very favourable to the government. You have written in your submission, as I have stated, that there are numerous contracts that result in the government taking a disproportionate amount of risk involved in the project or service delivery. Perth Children's Hospital is one example, obviously. That would counter the view that maybe the State Solicitor has generally—and maybe does not, so I do not want to verbalise him—that the contracts are favourable to the government. In this Perth Children's Hospital inquiry, that is what the State Solicitor said, although other people who came before us did not believe the contract levers were actually favourable to the government and actually they really did not have many levers to pull. I assume you agree with your statement here that numerous contracts that the government is dealing with are not favourable to the government and actually the government is taking a disproportionate amount of risk.

**Miss Ingham:** Yes, there are a lot of contracts that are established without the engagement of the State Solicitor.

**The CHAIRMAN:** Okay. Because we talked about Perth Children's Hospital, recommendation 5 in our fantastic report, which I am sure you have all read, "PCH—A Long Waiting Period", stated —

The Minister for Finance engage an independent expert to evaluate the efficacy of the commercial levers within the construction contract for Perth Children's Hospital and the manner in which they were utilised.

The findings and recommendations from this evaluation should be used to ensure future contracts provide greater leverage and confidence to the State in its commercial dealings.

That was recommendation 5. Where is the department at in responding to that recommendation?

**Mr Helberg:** My understanding is that the government's response to that report has not been tabled in cabinet, so we have not been assigned any responsibility in that particular case.

**The CHAIRMAN:** Were you consulted at all?

**Mr Helberg:** We were consulted in terms of the response, yes.

**The CHAIRMAN:** So you would agree with what you have submitted—that there are contracts that you are dealing with that are not favourable to the government?

**Miss Cant:** Not as favourable as they could be.

**Mrs Black:** Or governments taking more risk than the suppliers.

**Mr S.A. MILLMAN:** Sometimes that is a commercial decision.

**Mrs Black:** It is risk and return. If you take more risk, you can get a better deal.

**The CHAIRMAN:** But you also said some contracts are not drafted by the State Solicitor.

**Miss Ingham:** I would go as far as saying that the majority of them are not seen by the State Solicitor.

**The CHAIRMAN:** All right, but in the ones that are drafted by the State Solicitor, have any of those, in your opinion, shown a disproportionate risk to the government?

[10.30 am]

**Mrs Black:** The Langoulant inquiry reported on the QEII carpark and Mr Langoulant found that contract was inordinately not in favour of the WA government. I do not have a view on that, but that is what he reported.

**Mr D.C. NALDER:** Who initiated it?

---

**The CHAIRMAN:** That was drafted by the State Solicitor or SSO?

**Mr Helberg:** Yes, that is my understanding.

**Mr S.A. MILLMAN:** Who other than the State Solicitor's Office is drafting contracts for these agencies?

**Miss Ingham:** The way we establish contracts in this state, in goods and services, are through what we call a process contract. To make it simpler and to drive consistency, we have a standard process and template, so that at the end of that, you have a contract. A contract is not just a single standalone document, which has been drafted by SSO; it is actually a process. We go to the market with a request; that is part of a contract.

**Mr D.C. NALDER:** A tender process of all of this.

**Mr S.A. MILLMAN:** A tender process, yes. How often is that process reviewed by the State Solicitor's Office? Because there will be a template document —

**Mrs Black:** If we want to change any part of it, we get —

**Miss Ingham:** Yes, if we want to change any standard part of it. During negotiations on some of the bigger contracts, we will go to SSO when they want to start changing bits and pieces of it, and the process itself is something that was confirmed with SSO as being perfectly fine.

**The CHAIRMAN:** Do you engage private law firms?

**Miss Ingham:** Do we?

**The CHAIRMAN:** Do agencies engage private law firms in drafting contracts?

**Miss Ingham:** Yes, but normally that is through SSO.

**Mrs Black:** Not us, we do not.

**The CHAIRMAN:** It is done through SSO, right?

**Mrs Black:** Yes.

**The CHAIRMAN:** Okay. We might have a break for five minutes to stretch our legs and all that.

**Proceedings suspended from 10.31 to 10.39 am**

<008> J/3 [10:39:29 AM](#)

[10.40 am]

**The CHAIRMAN:** Simon has a couple of questions, but just going back to that issue about the contract: what would your recommendation be? I know governments make the final decision, but in regards to contract drafting, do you feel that agencies need to have a greater say in advising or providing feedback to the State Solicitor's Office?

**Miss Ingham:** Are you talking about for the big contracts, because SSO is not involved in a lot of contracts?

**The CHAIRMAN:** Okay; the ones that they are involved in then.

**Miss Ingham:** State Sols do not create a contract in isolation of the agency, though.

**Miss Cant:** No; they do talk to agencies.

**Miss Ingham:** Yes.

**The CHAIRMAN:** That is not the problem in your view? Where is the problem? Why is there a problem then? Where does it arise?

**Miss Cant:** In how contracts are drafted.

---

**The CHAIRMAN:** Is that where their problem is, is it?

**Miss Cant:** Because there are a number of ways they get drafted and there are differing levels of ability and understanding and planning, getting back to Kate's point; when you are developing your contracts, if you are rushed, you put a different level of effort in.

**The CHAIRMAN:** I know this is a very difficult question to answer—it is probably a silly question but I am going to ask it—in regards to the Perth Children's Hospital, we received varying views on that contract; a lot of criticism on that contract. That, of course, was the last contract prepared by the State Solicitor's Office, and I am sure that was not rushed. Why do you think there were —

**Mr S.A. MILLMAN:** Hang on. The Chair will just think about that question momentarily. While he does, can I ask a question —

**The CHAIRMAN:** There is a legal question. We might do that in closed session.

**Mr S.A. MILLMAN:** Yes. Can I ask the Chair's question slightly differently, not about the children's hospital but the question before that when he asked you what you think the cause of the problem is. In your very good submission, it says —

There are numerous contracts that result in the Government taking a disproportionate amount of the risk involved in a project or service delivery, ...

I would characterise those contracts as being problematic for the government; would that be fair?

**Miss Cant:** Sometimes. It would not be all the time.

**Mr S.A. MILLMAN:** When are they not problematic for the government, if the government takes a disproportionate amount of risk?

**Miss Cant:** Because you can take a disproportionate amount of risk but the contract can still go well.

**Mr S.A. MILLMAN:** No, that is a proportionate amount of risk, is it not?

**Miss Cant:** No. I think you could actually do a contract, take a disproportionate amount of risk to drive a better price or different outcome and that contract could still go well.

**Mr S.A. MILLMAN:** But axiomatically that is a proportionate amount of risk. As a matter of logic, a disproportionate amount of risk literally means the wrong amount of risk.

**Mr Helberg:** Is it not the case that in those instances —

**Mr S.A. MILLMAN:** It might be semantics, but —

**Mr Helberg:** In those cases, where there is a disproportionate amount of risk, and those risks do not actually realise, it appears as if the contract went well.

**Miss Cant:** So the outcomes could still be good—that is what I was saying.

**The CHAIRMAN:** So you say the disproportionate amount of risk relates to more the legal risk rather than the commercial risk?

**Miss Cant:** Not necessarily. Risk is just risk until it actually happens. As Phil said, if the risks do not come to fruition or do not actually manifest themselves into reality, the contract can still be successful.

**Mr S.A. MILLMAN:** Is this a problem that you are identifying or is this an attribute that does not need to be resolved; this sentiment that you have expressed in here?

**Miss Cant:** I think it is an issue.

**Miss Ingham:** It is more of an attribute.

---

**Mrs Black:** It is just something else that we need to take into consideration when we are looking at what is good contract management and how do we plan for and create strong, robust contracts that work for the state.

**Mr S.A. MILLMAN:** What are your suggestions as to remedying or alleviating the problems for the government encapsulated in that sentiment that you have expressed in your submission?

**Mrs Black:** Again, about capability and capacity.

**Mr S.A. MILLMAN:** In terms of capability, is it getting the State Solicitor's Office to more regularly—leave aside questions of resources—review your templates or to provide professional development to people who —

**Miss Cant:** No, not necessarily.

**Miss Ingham:** It is not the template or so much the legal issues. It can be capability and capacity but also the time spent on planning and the ability for the individual within an agency to clearly state what it is that they want to buy can be the difficulty.

**Mrs L.M. O'MALLEY:** Could I just jump in there. Could it also be talking about that ongoing management of the contract? There are two different parts there. There is the initial terms of the contract and whether there is risk and whether that risk is proportionate or disproportionate, but then there is the planning prior to that. There is also the ongoing management. Is that what you were —

**Miss Cant:** There is management of the risk. There is no project that does not have risk. If you de-risk it, then you do not get out of bed in the morning! It is managing the risk, making sure the risk mitigation is there and comes into play so that it is balanced. That is more about the planning within the agency itself and then the capability of the agency to manage the contract.

**Mr S.A. MILLMAN:** If I felt capable managing a contract over the course of the contract, I would assume more of the risk to myself and reduce the contract price because I knew then I would be able to manage it. Risk is a part of doing business.

**Miss Cant:** Yes.

**Mr S.A. MILLMAN:** You can accept that proposition without hesitation, okay. If I do not have the capability to manage the contract during the course of the contract, I want to alleviate as much of the risk as possible—as the government here—because I do not have any confidence that my contract manager is going to alleviate the risk. Whilst on the one hand the State Solicitor can quite genuinely say, "I thought the Perth Children's Hospital contract was beneficial to the state", we did not have the capability to manage the contract, which is why we had so many problems. What we ought to have done is reduce the risk at the start of the contract because we did not have the capability to manage the risk over the course of the contract.

**Mrs Black:** Those are the skills and capabilities that we need to look at, and the planning. There was a contract at Fiona Stanley Hospital—this is documented by the Auditor General—as a contract with some contractors to build an identity and access management system. The contract was vague; it did not say what was to be delivered. All the risk was with the government so it was, "Here's some money, build us this thing." In the end, it was not managed. The contract was vague. It cost the government \$6.2 million and the government got nothing, not a skerrick, out of that contract. There was nothing salvageable out of what those two IT contractors did.

**The CHAIRMAN:** You could have a good contract and it is badly managed, right, that is understandable. In your submission I think you are making a very strong link between poor contract and also poor management. In the third paragraph, you have said —

---

The ability to properly manage a contract and the performance of the supplier relies on the strength of the contract itself ...

**Mrs Black:** That is the point I am making about —

**Mr D.C. NALDER:** There are two elements to a contract: there is the establishment of the contract and then there is the ongoing operational maintenance of the contract.

**Mrs Black:** It has got to be a strong contract with a deliverable, or deliverables, that are measurable. Too many contracts in the past have not had that.

**Mr D.C. NALDER:** Part of what you are looking at, looking at both elements, because they are two discrete elements—establishment and operational.

**Miss Ingham:** Yes.

**Mr S.A. MILLMAN:** I have a supplementary question to that. The framework that you are developing with stakeholders, will that look at the principles for establishing a good contract? You are talking about ethical—is that —

**Miss Ingham:** Yes, it is in there.

**Mr S.A. MILLMAN:** Great. Hopefully, we will have a set of criteria to say this is what constitutes a good contract. It will have these attributes. It will be clear, it will be unambiguous, there will be certainty as to the terms, there will be certainty as to the obligations, there will be dispute-resolution provisions, there will be ethical supply chain provisions or whatever it is. I think you were saying you are getting input from stakeholders?

**Mrs Black:** Yes.

**Mr S.A. MILLMAN:** And you said you were getting input from unions?

**Mrs Black:** For the ethical procurement principles, yes.

**Mr S.A. MILLMAN:** Which unions?

**Mrs Black:** At the moment we have engaged with the CFMEU, UnionsWA, ETU and United Voice.

**Mr V.A. CATANIA:** Have you been directed in any way to go and approach those unions for their input?

**Mrs Black:** No. We want to talk to all of our primary stakeholders. That is just one group. We have not been directed to.

**Mr S.A. MILLMAN:** You said UnionsWA. The CPSU—CSA, the public sector —

**Mrs Black:** Yes.

**Mr S.A. MILLMAN:** Yes, great.

<009> T/N [10.49.24 am](#)

[10.50 am]

**The CHAIRMAN:** You may want to supply a supplementary, if there are any unions that you may have —

**Mr S.A. MILLMAN:** It is not so much that. It is a question of those who have expressed an interest in the inquiry.

**Mr D.C. NALDER:** I assume on that basis, that you are talking to a wide variety of stakeholders. Can you give an example of others, because I assume it is industry that you are talking to as well?

---

**Mrs Black:** We have not talked to them yet. We have about 10 sets of stakeholders—industry, Chamber of Commerce, unions, all government agencies, but specifically ones that have works within their legislation. I cannot think of the other ones. Kate, can you remember who they are?

**Mr S.A. MILLMAN:** Consult Australia?

**Miss Ingham:** We can probably give you that when we provide the other information—and the higher level engagement plan for procurement.

**Mrs Black:** So, some peak bodies.

**Miss Ingham:** It is a lot if I am honest.

**Mr S.A. MILLMAN:** The Australian Institute of Management or whatever it is, and AICD.

**Mrs Black:** The IT ones.

**Mr S.A. MILLMAN:** Yes.

**The CHAIRMAN:** If you could provide that.

**Mr D.C. NALDER:** We talked about the establishment and maintenance of contracts. If I am thinking about establishment, we often think about major infrastructure projects or capital projects that are undertaken, but there are often just as many operational projects, whether it is Serco—outsiders who are providing services in those contracts. I assume you are breaking down all the different types of contracts. How far into it do you go on contract management? For example, is there a focus on procurement and ensuring that goods and services that agencies buy have good systems in place to make sure that they are getting the right type of arrangements? I think about how corporations play this when buying a fax machine—not a fax machine, buying a printer. Sorry, I am speaking old school. They were new when I started work! They have to make sure that they can be serviced and can be this and can be that and standardised process are put in place. Are those sorts of things being looked at as well—procurement processes—as a part of contract management?

**Mrs Black:** They are. We already have in place for commonly purchased goods and services, such as printers, common-use arrangements in which the Department of Finance runs a procurement process for panels of suppliers and we do the due diligence. Then agencies can go to any one of those suppliers and know that we have already sorted out a pricing structure, and done due diligence on their conduct and things like that. For certain commonly purchase things like travel, stationery, printers, mobile phones, electricity, we have common use arrangements in place so agencies do not have to do that background work every single time they buy something like that.

**Mr V.A. CATANIA:** How do buy local policies affect that? In the regions, government agencies—if you have —

**Mrs Black:** Regions do not have to use common-use arrangements. Common-use arrangements are mandatory in the metro area, but in the regions—if you want to buy stationery in the regions, you do not have to use the Perth supplier.

**Mr V.A. CATANIA:** So is there a discretionary amount that they have got?

**Mrs Black:** Yes.

**Mr V.A. CATANIA:** What roughly is it—10 or 15 per cent?

**Miss Ingham:** There is no amount. If there is a supplier in the regions that can provide something on the majority of our CUAs, then you can just go direct to that supplier. There are CUAs that are still mandatory in the regions, for obvious reasons, like P-cards and things like that where it would not really make sense to go to your local bank.

---

**Mrs L.M. O'MALLEY:** If I could ask a question related to your submission. On page 15 you say that the WA contract management framework is under development by the steering group—the big long acronym—towards good practice contract management. Will this contract management framework have mandatory requirements; and, if so, who will monitor compliance; and, if not, why not?

**Miss Ingham:** That is what we are working through. When I mentioned benchmarking earlier, we are having a conversation with a group that we are engaging with at this point around how transparent we go with where agencies are ranked. It is a fine line, because, obviously, you could use transparency to drive accountability, but then sometimes you also want to work with agencies initially to use that information and to give them some time to address where they have shortfalls before you go slapping them with a big stick that is public disclosure. It is part of the conversation at this stage.

**Mrs L.M. O'MALLEY:** Just another one on the framework, which kind of relates to some things that you were talking about earlier about individuals—building capacity and their retention of that knowledge and the sharing of that knowledge. I guess it also speaks to that collaboration. Will that be built into the contract management framework?

**Miss Ingham:** The sharing of knowledge between people who are doing it?

**Mrs L.M. O'MALLEY:** You talked about individuals who have skillsets that could potentially be transferable across agencies. I guess it also speaks towards ensuring that there is that strong collaborative approach. Is there any way or mechanism, do you think, that that could be built into this framework?

**Miss Ingham:** Yes, that probably falls more broadly into the procurement reform work—the whole picture in terms of trying to make the resource base more flexible and able to be deployed to where they are most needed. For example, if you had someone managing something at Fiona Stanley and then it is finished up or they decide to in-source something, that individual could easily move across to, maybe, Justice and help them with one of their big facility management contracts.

**Mrs L.M. O'MALLEY:** Finally on mandatory requirements, you said that there is conversation in that space, but is there a possibility of leaning towards putting those mandatory requirements into the frameworks?

**Miss Ingham:** Yes. Through the reform work that is what will give us the authority to make them mandatory. Making things mandatory sometimes comes with a whole heap of unintended consequences. We have learnt that in other areas, so we do not want to just go, bang, this is what it is and it is all mandatory. We want to work with agencies to see what is actually workable, but also what will drive the most positive change.

**Mr V.A. CATANIA:** Going to buy local policies, in terms of engagement with other departments, is the buy local policy or framework going to be clearly defined so that a buy local policy is not just Western Australia and that if you are doing something in the regions, it is regionally based? For example, in the Gascoyne, if a department is doing something, is there going to be a buy local policy that allows that agency to look first at the region that they are engaged with?

**Miss Ingham:** At a high-level point there are legal issues with just keeping something within a region if it is deemed you have got FTA issues, government agreement issues and constitutional issues. Buy local has never been particularly easy to navigate; you would have to ignore all of those issues to basically keep it here. The buy local policy that currently exists is under review. Finance is working closely with the Department of Jobs, Tourism, Science and Innovation.

**Mr V.A. CATANIA:** What is it reviewing, if you are saying it is very difficult?

---

**Miss Ingham:** It is having those kinds of conversations. Are we at a point that this government might want to ignore those things or not? We do not know. We are just going to provide options.

**Mr V.A. CATANIA:** What do you mean by ignore? Ignore the legalities that exist with certain contracts with other agencies?

**Miss Ingham:** No, it is not certain contracts. That is to do with free trade agreements, the ANZGPA—the Australia and New Zealand Government Procurement Agreement—and also section 91 of the Constitution.

**The CHAIRMAN:** It is 92?

**Miss Ingham:** Yes.

**The CHAIRMAN:** This relates to what Vince said—of course, there are legal issues. In formulating policies that may benefit the local community, do you actually have a modelling of social economic benefits that would come about as a result of certain contracts engaging locally? Is there an economic modelling of the social benefits?

**Miss Ingham:** We would love it if there was one, because it would make it easier to make informed decisions, but there is not one at this stage.

**The CHAIRMAN:** I will try to find one. I think there is one. In your submission, which I must say is an excellent submission, on page 4 under “Current situation”—we did talk about this a little bit, but I wanted to look at it again. You start the page —

With the increased focus on contract management after the recent whole-of-government reports, it is recognised that the contract management capability in the public sector needs development. To promote this —

We have —

... established the Contract Management Interdepartmental Steering Group ...

That, to me, looks like you are trying to improve the system, the guidelines, you are working with. Is there an issue about personal capability even if you have a really good system? In WA at the moment does the public sector have enough people to ensure we can have Rolls-Royce contract management?

**Miss Ingham:** I love talking about contract management. At the start when I mentioned the principles document and how we split that out into what does contract management look like when it is done well at an agency level and at an individual level, the answer to your question is yes. You could have all the governance structures right and all the accountability really clear at the agency level and then not have people capable of achieving good outcomes with the contract. You could have really good contract managers, but they have no idea how to navigate their own agency to ensure they are getting good outcomes. That is why I have split the two things because we think that is quite pivotal.

[11.00 am]

**Mr V.A. CATANIA:** Given how agencies have been merged—we have all these acronyms now that I will not say—have you picked up any stresses in other agencies, being able to sit at the table and go through these reforms that you want to achieve? Are you picking up any stresses and strains within the agencies of not having the capability or enough employees to be able to carry out a lot of these reforms or input into the reforms?

**Miss Ingham:** In terms of input, I think it is fair to say—other people might want to jump in—the agency reps that we are getting involved with are exactly the right agency reps. They understand

---



what is going on in their agency and they understand the issues. That has been a real improvement; I think it is something that Jodi was mentioning earlier—the appetite in government, in the public sector, to do this stuff better is across the board, so the DG is making sure we have the right people involved.

As to your second question, I think it is really hard for some of these very big new organisations that are still trying to figure their internal structures to have clarity around who is responsible for what, and do I have sufficient capacity and capability within my organisation? That is still being worked through. You have some fairly large organisations now that have come together.

**Mr S.A. MILLMAN:** Just picking up on Vince's Buy Local point and your answer to that, we are moving, I think, from a policy level, the Buy Local policy, which has been a policy since about 2006, I think, into a paradigm where we have the WA Jobs Act that was passed by this Parliament. Have you looked at the way in which similar legislation has been applied in other jurisdictions to promote local production—so Queensland and Victoria?

**Miss Ingham:** Yes, we have absolutely done interjurisdictional analysis. The Australia and New Zealand Government Procurement Agreement is currently under review, and all the states are coming together to talk about what we should and should not be doing.

**Mr S.A. MILLMAN:** Fantastic. So influencing our position at that negotiation will be our WA Jobs Act?

**Miss Ingham:** Yes.

**Mr S.A. MILLMAN:** Fantastic. That is good to hear. I am happy to hear that. I had a question about the State Supply Commission, which has no employees?

**Miss Ingham:** Correct.

**Mr S.A. MILLMAN:** This is interesting because obviously the State Supply Commission Act has a vital role to play in your authority to procure goods and services. Are you familiar with the review of the Financial Management Act and the regular review of that piece of legislation? Are you aware that previously the review of the Financial Management Act had recommended defunct agencies be removed through legislative amendment? Were you aware of that?

**Mrs Black:** Vaguely.

**Mr S.A. MILLMAN:** Where is that up to?

**Miss Ingham:** The State Supply Commission Act was to be repealed. That was part of that. We were going to be capable of doing that legislatively when we were Treasury and Finance because we could use other tools like the Treasurer's Instructions. We now do not have that authority as the Department of Finance. As a result, the act has kind of stuck around for a while. The reforms that are going on are quite timely for us because it will fix that issue. At the moment while the State Supply Commission does not have people associated with the commission, it is administered by the Department of Finance so we are the ones that support it and we will fix up this little clunkiness that has been going on for some time as part of the reforms.

**Mr S.A. MILLMAN:** The other thing about the state supply act is not just the establishment of the commission but all the powers that you get in part 3 of the act, or the supply of goods and services powers, which you are still going to need to deploy. Is a way through the replacement of the State Supply Commission Act with a new omnibus procurement act?

**Miss Ingham:** Yes.

---

**Mrs Black:** That is the aim of our reform program—to have a single procurement act that covers goods, services and works.

**Mr S.A. MILLMAN:** Great. Fantastic. That is excellent. Thank you.

**The CHAIRMAN:** Are you looking at any overseas or interstate jurisdictions to assist you in the reform process and in trying to improve contract management in Western Australia?

**Miss Ingham:** We have looked at other jurisdictions and overseas in terms of what they do and what we think works well and what we would like to borrow. We have not necessarily got them engaged with us. We have asked questions.

**The CHAIRMAN:** Are you able to tell us which ones they are?

**Miss Ingham:** The UK and New Zealand are definitely ones that we have spent quite a bit of time looking at. New Zealand has some really interesting things. There are others and, again, I can provide that to you when I provide that other information.

**The CHAIRMAN:** If you can provide that—thank you. We will have a number of other questions—some are technical—that we will put in writing and ask you for some written answers. Once again, thanks very much for your written submission and also for your answers today.

Thank you for your evidence before the committee. We will forward a copy of the transcript of this hearing to you for the correction of transcription errors. Please make these corrections, and return the transcript within 10 working days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced 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. Thank you once again. You never know, we may ask you to come back at another stage.

**Hearing concluded at 11.06 am**

---