

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

**INQUIRY INTO PUBLIC SECTOR PROCUREMENT OF GOODS AND SERVICES
AND ITS VULNERABILITY TO CORRUPT PRACTICE**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 23 OCTOBER 2019**

Members

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

Hearing commenced at 10.19 am

Ms CASSANDRA AHEARNE

Deputy Chair, State Tender Review Committee, examined:

Mr MARK THOMPSON

State Tender Review Committee, examined:

Ms ANGELA CORBETT

State Tender Review Committee, examined:

Mrs SUSANNE HARRIS

State Tender Review Committee, examined:

Ms BEATA BIALOZOR-KURTIS

State Tender Review Committee, examined:

Mr KIETH VAN DONGEN

State Tender Review Committee, examined:

Mr LIAM CARREN

State Tender Review Committee, examined:

Miss KATHRYN ABBOTT

Executive support and policy and practice adviser, State Tender Review Committee, examined:

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today. I am Margaret Quirk. I am the Chair of the Joint Standing Committee on the Corruption and Crime Commission. I would like to introduce other members of the committee present today. On my left is the Deputy Chair, Hon Jim Chown, MLC. On his left is Hon Alison Xamon, MLC, and on her left is Matthew Hughes, MLA, member for Kalamunda. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege. However, this privilege does not apply to anything that you might say outside of today's proceedings.

Just to give you an explanation, this committee is looking at risks of corruption within a procurement context. We are trying to work out the oversight mechanisms and who has responsibility for ensuring that all the t's are crossed and the i's are dotted. Perhaps the Deputy Chair might like to give us an overview of how the committee operates.

Ms AHEARNE: Basically we provide an assurance role. We perform an independent review of high-value, high-risk procurement processes. High value is \$5 million and above. Our specific remit is to look at value for money, policy compliance, application of best practice and just generally management of government risk in whatever form that may come in. We are advisory only. We cannot stop a procurement and our decisions are not binding. The requirement for processes to be scrutinised by STRC applies to all agencies for all goods and services with some exceptions being those agencies that have a full exemption from section 19(1) of the State Supply Commission Act,

which is PTA, Main Roads and ICWA, and also community services, which has an equivalent oversight committee. Other than that, we basically see everything.

The CHAIR: Is that goods or goods and capital expenditure?

Ms AHEARNE: Goods and services, so no works.

The CHAIR: You mentioned high risk as well. How is that defined?

Ms AHEARNE: It is not, and it is possibly an improvement opportunity to be able to define risk. Unfortunately, value has become the easy way to establish whether something is appropriate for consideration by the committee. Value is how we determine all sorts of thresholds for procurement, so when the public tender threshold kicks in and when the requirement for competitive quotes kicks in. Value is an easy kind of way to assign risk.

Hon ALISON XAMON: Because you can quantify it effectively?

Ms AHEARNE: Yes, exactly. It is not subjective.

Hon ALISON XAMON: How would you define “high risk”? There must be a way that the review panel has chosen to interpret that.

Ms AHEARNE: Processes do a risk assessment at this value. Risk assessments are undertaken at the procurement plan phase. That is a process facilitated by the Department of Finance officer. It always uses the agency’s risk framework. We get to see that risk assessment as part of the submission to the committee. It is then updated as it moves through that life cycle. We will see the next iteration of it attached to the evaluation report and then again with the contract management plan. It will be amended to suit whatever stage it is at in the life cycle.

The CHAIR: It is said in the constitution in a number of places, and you have already said in evidence that the decisions of your committee are not binding. On top of that, it is basically the agency’s responsibility to get it right. Can you just explain to us what the purpose of the committee is in those circumstances?

Ms AHEARNE: I think it is to give the accountable authority or the delegate the comfort that it has had independent scrutiny from a group of senior procurement professionals. They may choose to take the decision and the recommendations. Usually our decisions are accompanied by comments—our view on where a particular document could be strengthened, where there are gaps and where we see risks. Then it is really up to the accountable authority to say, “We’re running a business or delivering a service to the community. Thank you for your advice but we’re going to take a risk-based decision and proceed.” I would suggest that it would be rare that that would happen, but certainly the accountable authorities, the one that is running the business, is answerable for its actions.

Mr M. HUGHES: Can I just follow on from that? Your remit is to endorse, to endorse with reservations or not to endorse. How often do you not endorse?

Ms AHEARNE: Here is something we prepared earlier. It does not happen very often because the documents do get very heavily scrutinised and they go through quite an extensive review process before they even get to us. They go through the Department of Finance layers as well so that by the time they get to us they are in pretty good shape. We have declined to endorse in the last three years only once, and that was where the proposed strategy created the risk of an employer–employee relationship. It was later amended to address that concern and then resubmitted when it was endorsed.

The CHAIR: The composition of the committee is that there are a number of people from Finance on the committee. Are the Finance members effectively ex officio?

Ms AHEARNE: Sorry?

The CHAIR: I am getting a yes, from Ms Abbott.

Miss ABBOTT: Within the constitution it states that if you are in a certain position then you are appointed to the committee.

The CHAIR: Can I put the proposition to you, given that you have oversight and given that you have members from Finance, is it not Dracula mining the blood bank? How is it independent?

[10.30 am]

Ms AHEARNE: I think the inclusion of members from external agencies is one of the safeguards. With the Department of Finance being the central agency, the keeper of best practice and the centre of policy, there is a certain independent oversight obligation, and they are best positioned to perform the functions that they do on the committee. It is kind of like that nice balance. We are roughly composed of half Department of Finance officers and half external agency officers and it works quite well, because we are all coming at it from a slightly different angle. We have people who are particularly strong in risk—thanks, Kieth. Mark takes a very commercial aspect and is very interested in value for money, and our Department of Finance members obviously bring that really deep policy expertise and best practice interests. I think it is as independent as it can be. I am not sure what an alternative looks like, off the top of my head.

The CHAIR: Well maybe not employees of the Department of Finance I would have thought. If there is a complex contract involving IT services, for example, and none of you would claim to be experts in IT, how do you go about assessing something when clearly there is not a level of expertise within the committee?

Ms AHEARNE: I am happy to answer, but maybe somebody else wants to do that.

Mr THOMPSON: I will happily give you a view. Often what we talk about is the “what” of the contract and the “how” of the process. The process is almost agnostic to the content that goes through it, to make sure it is a well-defined process and it is going to have competitive tension in the process. Then the “what” typically is matched to the business needs. We do not get right down into the technicalities of the actual service; that is what the evaluation panel do. Our job is to make sure the evaluation panel has reviewed the content in the right manner to make the best decisions that they can, as opposed to the technical decision they actually make.

The CHAIR: And the evaluation panel is agency based?

Mr THOMPSON: Yes, or it can be interagency based sometimes.

The CHAIR: Before I let my colleagues loose on you, just two questions: how often do you meet, and for what duration?

Ms AHEARNE: We have a scheduled weekly meeting. It obviously does not proceed if we have no items. We always have items.

The CHAIR: How long does it run?

Ms AHEARNE: It typically runs for one to two hours, depending on the workload for that particular week. The workload is quite uneven. We are having a bit of a heavy patch at the moment but —

The CHAIR: From leading up to 30 June probably. Is there not sufficient workload to have a chair? That question was put to us.

Ms AHEARNE: There is some breaking news.

Miss ABBOTT: We are in the process of engaging a chairperson role. It acknowledges the workload that committee members have taken on board. We are in the active process of employing a chairperson for the purpose of chairing STRC and supporting the committee in its decision-making.

The CHAIR: One final question before I let my colleagues loose on you. Ms Corbett, you mentioned that you are involved in the Department of Finance in the procurement review process. Can you tell us what stage that is at and what your role is?

Ms CORBETT: My role focuses on the ethical procurement framework part of the procurement reform. If you like, there are two parts. I like to think of my job as being quite externally focused, ensuring that the government does business only with suppliers who behave ethically. There is another half for which I am not responsible, and that is a fresh look at the way that procurement is conducted in the state. That chiefly involves things like drafting a new procurement act and then everything that sits under that—new procurement policies, which we are calling rules, and also all the affiliated information, like updating our commonly held templates that the Department of Finance currently does. I would say that nothing is off the table in terms of the things that we are doing, but the first phase of that is definitely to better align goods and services and works procurement.

The CHAIR: What is the timetable to complete all of this?

Ms CORBETT: We have recently received drafting priority for the new procurement act on which even my project of ethical procurement hinges, quite frankly. That is A20. I believe that means that we are able to get our draft procurement act into Parliament in the first half of next year.

The CHAIR: Finally, on the ethical side of things, how much consultation has there been with the private sector? I have heard the comment from one umbrella organisation that their good members find it hard to manoeuvre their way through what is expected.

Ms CORBETT: I think it is fair to say that we have had some learnings in that space. The ethical procurement reform project is proceeding in two phases, the first of which is the development of a supplier code of conduct. We began that earlier this year. We got a first draft, we engaged with unions, with peak supplier bodies and, of course, internally with government, and then we put that out for public comment. That closed, and at the moment we are trying to rationalise the divergent positions that were brought to light through that process. Nonetheless, we have also begun phase 2 of that, which looks at other things that we can do to ensure that we do business with suppliers who behave ethically. We are looking at a range of measures. We are very cognisant that we need to improve on the way that we communicate, because it is fair to say that there was feedback that it was very difficult for some people to comment on the supplier code of conduct in and of itself without any indications on how it would be enforced. We are trying to address that problem.

Hon JIM CHOWN: You have obviously stated that your recommendations are not binding. How often would you make a recommendation with regard to a procurement contract?

Ms AHEARNE: Most submissions have some recommendations for improvements to the document. Very few of them are perfect or go without discussion, feedback or conversation, which we reflect in the minutes and say, "This bit could be beefed up or elaborated on." It usually reflects anything that has been teased out through the discussion. We have said, "Okay, the document itself might leave a little bit to be desired, but we are satisfied by the conversation", so we update the document to reflect that. I would say that probably 95 per cent of the documents have some feedback to some extent, and most of it is minor.

Hon JIM CHOWN: So you get feedback from the department with regard to recommendations that you have made. Do you follow through on those recommendation to see if they have been adopted or otherwise?

Ms AHEARNE: No, we do not.

Hon JIM CHOWN: You do not. Why not?

The CHAIR: We are getting divergent opinions here. I have seen three nods. Maybe one of your colleagues could assist.

Hon ALISON XAMON: Nods are not picked up by Hansard either.

Miss ABBOTT: In the process that we follow, STRC does not normally follow up, unless we have asked for the item to be resubmitted to see the revisions to the document. That often occurs if we have conditionally endorsed an item, but it is not guaranteed that the committee would ask for that to be followed up. I believe that the nods around the table are from the Finance people, because Finance members of the committee then go back with their procurement facilitators and talk to the agency about then actioning the feedback that has been received by the committee.

Hon ALISON XAMON: So your evidence to this committee is it that this particular group may not follow up, but it will get followed up as a matter of course by the Department of Finance. Is it defined that that will happen or is it just something that people take on? I am wondering if it is an automatic part of the process that the Department of Finance follows up qualified assessments.

Ms AHEARNE: I cannot answer that in my capacity as deputy.

Ms BIALOZOR-KURTIS: It is defined in the sense that it is always followed up by the facilitator. Do we report as part of the actions?

Miss ABBOTT: I do not think that we do that anymore. We do not have a formal mechanism for Finance to then report back to STRC. I think that it is an informal practice.

Hon JIM CHOWN: I find that a bit unusual, because obviously the committee is going to meet and peruse a large number of documents worth over \$5 million—of great value, quite frankly. Surely the committee would be happy to see that their recommendations are actually actioned; otherwise, you are just a paper tiger, guys. How would you know that you are on the right track? How would you find out whether your hard work—I assume it is hard work—has been worthwhile? Where is the job satisfaction here? What is the point of this committee?

[10.40 am]

Ms AHEARNE: I think the underlying principle, and I am not saying that I agree with it, is that the accountability rests in the agency.

Hon JIM CHOWN: But you are an oversight committee; you should be accountable also.

Hon ALISON XAMON: One of the questions I want to ask is that our committee has received evidence that there is concern about a lack of expertise within the State Tender Review Committee to be able to make proper assessments around some of the procurement requests that have been made. An example would be: how on earth would you know whether the right machine that goes “ping” from the health department is actually a good buy or not? We have already talked about IT. How do you know if the police helicopter that has been selected is actually the right one? What would you say to concerns that there really is not sufficient technical expertise within the current make-up of the committee to be able to make those assessments as to whether what has been proposed to be purchased is a good buy?

Mr THOMPSON: I have been in procurement for a very long time. The content of what comes through procurement—whether it is a building, a helicopter or ICT—and the processes and things that you consider in terms of market tension and how you pick the product and whether it meets the customer requirements are all very similar. We do not have the deep technical knowledge that you would need, but also, what I have seen sometimes is that that can actually cloud the procurement decision. People who are looking for a technical solution may be biased towards that and not consider the wider commercial impacts. There are pros and cons for either. We have some technical knowledge—I have some technical knowledge in some areas from things I have been involved with—but I agree that we do not have it down to an nth degree.

Hon ALISON XAMON: I suppose what I am trying to get to is that the departments themselves are making this assessment that we should procure. It is coming to you. You are not able to independently determine whether it is the right purchase or not, so it just goes back, even if it is qualified, to that same department that has made that assessment. Is it the evidence then of this committee that when it comes to technical oversight of complex procurements, that we do not have within the system at the moment that hands-off capacity to make that assessment?

Mr THOMPSON: I suggest that we are relying on the evaluation panels that we set up have the right people to make the technical assessment, and they are always looking at how they make their assessment and making a judgement on the process and considerations as opposed to the detail.

Mr M. HUGHES: I am not familiar with the process of the evaluation panel. Was that panel developed by the agency?

Mr THOMPSON: Yes.

Hon ALISON XAMON: Again, it is sitting with the same agency that has undertaken that initial procurement.

Mr THOMPSON: Yes.

Mr M. HUGHES: Without putting words into your mouth, in terms of it being a complex thing, government and departments have specific responsibilities. You would surely have to be satisfied that the correct mechanisms were in place in each of the departments to ensure that the advice that is being provided with respect to, presumably, the director of the agency, ultimately was the best advice that was available. What is your role in that process? Do you have any engagement with or commentary about the review mechanism at the agency level?

Mr THOMPSON: I will give you some information then answer the question. Often, the people who come into the room will consist of a Department of Finance person who talks about the process that they have run and they will take feedback on the process. Often the chair of the evaluation committee comes along. The chair of the evaluation committee is the person who reviewed either the technical nature or the service level to try to get consensus and agreement about how what is in the contract will best serve the needs of that business. We often have a dialogue and exchange with that party to try to get a sense of how they scored it, how they made the decisions and whether it is fit for purpose. Does that answer your question?

Hon JIM CHOWN: I will tell you what concerns me. What I am hearing from you, Mark, is that the committee relies fairly substantially on the procurement process with the department when they put through a submission to you guys. You are an independent assessment panel. How do you make an independent assessment without relying on the department's assessment of its processes? You have just said that if you are happy with the procurement process that has been ticked off by the department—you cannot find any faults that that procurement process—you are happy with the job.

Mr THOMPSON: Yes.

Hon JIM CHOWN: Where is the independent assessment here? You are actually just ticking the box for the department.

Mr THOMPSON: Maybe I will try to articulate it in another way. We get presented with procurement plans, evaluation reports, contract variations and contract management plans. Those documents contain words about: this is what the need is, this is the process that we went through, these are the outcomes, these are the vendors, these are the price points and these are the risks associated with the procurement. Our remit is to kind of review those documents, so we pre-read —

Hon JIM CHOWN: In an hour and a half a week?

Hon ALISON XAMON: Just let him answer the question.

Mr THOMPSON: So we pre-read and then invite the members to come in—a finance lead and an agency lead—and then we delve or test certain aspects. We might test the competitive nature. We might test the size of the panel. We might test for conflict of interests in the evaluation panel. We might test the way that they have scored it. We might test the way they have engaged industry. We might test the transition plan —

The CHAIR: Or you might not.

Mr THOMPSON: Or we might not, but it relies on the skills of the people at the forum. That is the job we try to do and we try to do it as best we can, I guess, within that remit.

Mr CAREN: I might make a comment, if you like. In terms of that expertise issue, I can recall some of the plans that have come in when I have been to meetings and particularly the IT aspects—you mentioned IT before. I may not have the expertise. We cannot have all the expertise required around health products, helicopters and all the sorts of things that come before us. From my perspective, I always make sure that the expertise has been sourced. I can recall one instance, probably last year, around IT. I did not feel comfortable that the right expertise had been provided there. I think it is the Government Chief Information Officer now who provides some central government oversight in terms of IT procurement. I can recall encouraging the agency to make contact with the Government Chief Information Officer and ask for advice as to whether that strategy that was being pursued was correct.

Hon ALISON XAMON: One of the questions I have is about, as you mentioned, contract variations. How much of your workload, percentage-wise, would be taken up by dealing with contract variations as opposed to initial applications for procurement?

Ms AHEARNE: Over the last three years, 20 per cent of the items that we considered roughly.

Hon ALISON XAMON: Of course, we have received evidence that contract variations can be quite difficult to keep track of because that is where you may get an accumulative impact. How often do you find that there may be problems with the way that the contract variations are being proposed? Do you have a capacity to keep track of the accumulative impact of particular contract variations to an initial contract or are you just seeing it with fresh eyes every single time you are seeing a contract variation?

Ms AHEARNE: When we consider contract variations, our decisions on those we merely note. We do not “endorse” or “not endorse” because they are inherently problematic. If STRC is endorsing variations, it can give the impression that that is a practice that we support. We only consider variations that are accumulatively or individually worth \$5 million and above.

Hon ALISON XAMON: It is a lot money though.

Ms AHEARNE: Exactly. We feel, because of the inherently problematic nature of that, that it is better to note to say that we have had that visibility, there is transparency, but we do not want to endorse that because often underlying that, it can be a signal of poor planning, poor contract management —

Hon ALISON XAMON: Or corruption. That is a possibility. Are there any particular departments that tend to be more inclined to large-scale contract variations; and, if so, which ones?

Mr THOMPSON: I am happy to talk to that: Health. Going back to your previous point, contract variations actually give a chronological history of all the variations that have been approved in the past, so you can build up a picture.

Hon ALISON XAMON: Okay, that is helpful.

Miss ABBOTT: That is in our template suite and that is in our contract variation memo.

Hon ALISON XAMON: That is helpful information, thank you.

[10.50 am]

Mr THOMPSON: I will give you maybe a different picture. Some contract variations are okay; they are the right thing to do. For example, we have the HealthNext and we are bringing on extra applications, so rather than having a really big contract, we specify to what we know, and as a new application comes in, we need to increase the value to make room for a new piece of software that is coming in. Some contract variations are actually quite good and some contract variations are bad because of poor planning. The context is we have 2 500 agreements that expire in the next five years in Health. The system does not have the capacity to take 2 500 agreements to market in a five-year period, among all the other things. Part of what we are doing at the moment is we are having to make choices about which things we want to take to market because it is either poor performance, low risk, or good commercial opportunity, and which of our contracts we need to extend beyond term to make space to do it in the next cycle. We are building a five-year plan on that at the moment. We are a big extender beyond term.

Hon ALISON XAMON: So Health is a big contract variator? Any other departments?

Mr CARREN: All the big agencies with the big budgets. Because of our monetary threshold we will see the agencies with the big budgets. Education is a big agency, obviously, so we will see them. Who else?

Ms AHEARNE: The Department of Finance, and that might be through the redevelopment of whole-of-government common use arrangements, which are quite big undertakings.

The CHAIR: Can you just take us through the process that you undertake to ensure that all the processes that need to be followed have been followed, from when the documents land on your desk?

Ms AHEARNE: The templates are actually built and structured to tell the story—the narrative from beginning to end—and there are prompts within that document to tease out particular compliance and policy requirements, and so those templates really are a guided process. The template does not leave you anywhere to run and hide. If declarations of conflict of interest have not been sought, it is obvious because the template is silent on it. We make sure that all the template requirements are completed and that the commentary is sufficient to stand alone and tells that story in a compelling, convincing manner, and that the rationale for the decision is sufficiently supported by appropriate scores, appropriate detail, and that the features of good procurement practice are all present. It becomes very clear when there has been a breakdown in process. When things have not gone ideally, it does become apparent very quickly.

The CHAIR: How?

Ms AHEARNE: Just because there will be gaps. There will be areas that are vague. Prior to the matter being discussed in front of the client agency and the Department of Finance, we sit around and compare notes of the things that cropped up for us: "These were areas of concern. I did not understand that." We exchange notes and we have a clear idea of what we want to cover in that discussion, and then they come in and we work through that in a really systemic way.

The CHAIR: If there is a plausible assertion in the relevant box that conflict-of-interest issues have been addressed, that would not necessarily get any further examination from the committee. Can I just quickly give you a hypothetical example? It is known in some agencies that getting a particular good—for example, there are toys that they would like to get. If I can use Emergency Services, for example. There is a mob in Austria, I think, that does really speccy fire trucks. The supplier of that might, for example, pay the air travel for someone in the department to go and have a look at those fire trucks with a view to convincing them that they are the only one that should be considered in the tender process. How are things like that picked up?

Ms AHEARNE: There is a step that comes before the procurement plan, which is a business case, and that is solely an agency responsibility to determine whether there is a business need for a particular good or service. It is not our place to say whether a particular purchase is right or wrong or is required or not, which I guess feeds back into the notion: should we be subject matter experts? Well, no, because the agencies are best placed to do that. That decision has already been made.

Some of the things that might raise a red flag for us, what we might be privy to, is when there has been an exemption from competitive requirements at a very high value and it might be that might be something where you smell the proverbial rat. It is like, "What do you mean there is only one supplier of fire engines? That sounds highly unlikely and improbable." That might prompt a line of inquiry, but the rights or wrongs of whether a purchase is appropriate or not is not our place.

The CHAIR: And whether the departmental officers had any inducements by way of travel, for example, would not necessarily come up?

Mr CARRÉN: We will often comment on the composition of the evaluation panel if we do not feel there are enough people on there. It is never one person's decision; it is multiple people deciding. As part of the process the agency has to declare whether there is a conflict of interest and sometimes we will ask questions about how they you managing that. So it is up to them to declare that. It is just like travel. If someone is travelling, they are meant to disclose that within their own agency and that is the best control and check around that. Hopefully that helps you.

Ms BIALOZOR-KURTIS: If I could add to that also, that is captured in both the procurement plan and in the evaluation reports. That conversation with the agency, with the evaluation panel, on whether there is any conflict of interest occurs twice in a process: at the very beginning before we approach the market, at the procurement planning stage, and then again when the offers are received from the market. The evaluation panel members have the opportunity to declare any conflicts of interest, including travel, at those two points in the process.

The CHAIR: They might think that is part of the culture within that agency, and that it is not worthy of mention or appropriate. We have had some evidence that the PTA sent officers over to China to look at the communication system for the rail and to ask consumers which out of two tenderers got better client satisfaction. That seemed to me a bizarre process.

Mr CARRÉN: Another thing I will say is that often we will suggest to an agency that they consider probity advice as part of the procurement process. That is often a good way to help with those perceived or actual conflicts of interest. In my agency, when I am signing off on a procurement plan,

if there is an evaluation panel, I will ask questions long and hard about the people on that panel. For example, if there is someone who used to work for one of the respondents, I will say, "Well, he cannot be on the panel." We had one recently when as members we declared conflicts of interest if we are viewing the papers. We had one recently with one of our members who was related to someone. One of the procurement plans had a respondent and the member declared that he could not comment on that because his cousin worked for that company. We make a lot of effort to try our best for that.

Miss ABBOTT: I can have a look at the Department of Finance-managed conflict-of-interest form, because I believe it does provide some examples of potential natures of conflict. I cannot recall off the top of my head whether it is as specific as travel or accommodation. I do know it has some examples in it which hopefully would prompt some people to reconsider if a travel thing should or should not be declared despite what their agency practices might be, so we can probably provide that form if you would like it.

The CHAIR: Yes, thank you.

[11.00 am]

Ms AHEARNE: Can I quickly add some other controls? For me, corruption and fraud occur in the dark. It is covert and some of those high-profile instances that we know about through the CCC have been where agencies have these little arrangements that are happening internally. The threshold requirements for procurement mean that as we get into bigger and bigger spend, there are more layers of scrutiny. The light that is shone on the procurements at \$5 million and above, and that is the highest threshold if you like, it is astonishing how many hands touch and eyes see those processes. The more people who look at it and scrutinise it, the less chance there is of panel members colluding, of people being able to get away with that sort of stuff and of someone not seeing something and saying something. It is really about transparency, and we are just another form of transparency.

Some other things that I have jotted down are that Department of Finance involvement is required at that threshold, so for most agencies, once a requirement hits \$250 000 there is a requirement for that process to be facilitated by—at \$5 million it is a senior experienced officer who should have the nous to be able to manage that panel and pick anything up. Liam has mentioned the external probity auditors. Agencies will, if they think there are particular sensitivities—because suppliers are also a really good guard against fraud and corruption—if they get wind that they have missed out on something, it is like, hang on, that does not sound right, and they will kick up a stink. Sometimes agencies will bring on a probity auditor to ward off that criticism. That is another good control. That is at the agency's discretion, but they usually get it right. The public tender process, which also kicks in at \$250K, is a guard against favouring one supplier. It then becomes much harder to single out a supplier when you are dealing with a competitive market.

The CHAIR: There seem to be a number of exemptions there, though.

Ms AHEARNE: Exemptions from public tender?

The CHAIR: Yes.

Ms AHEARNE: At the threshold there are very few. The exemptions we see might be to engage, say, a disability enterprise or an Aboriginal business in the case of the Kimberley Renal Services.

Mr CAREN: There has got to be a reason.

Ms AHEARNE: But, generally, I cannot think of any other exemptions we looked at where it was not to fulfil the government's social objectives around those sorts of engagements.

The CHAIR: For example, the assertion, I think we saw one for a Taser, where the police claim that there was only one brand of Taser or one brand of gun.

Ms AHEARNE: Without seeing what the justification was, it might be that there would only be one Taser that was fit for purpose. Again, on the face of it, it seems unlikely, but —

The CHAIR: It seemed a bit ambit, and there were numerous of them that we saw.

Ms AHEARNE: Those sorts of exemptions are generally on the basis of sole source, or whatever is done internally to the organisation. The accountable authority really has to wear the risk and criticism for that. They are in the box seat when they say that that is the only Taser, and the other suppliers in the marketplace jump up and down.

Mr CARRÉN: Why I think it is important to mention that the accountable authority bears the risk is that as part of the procurement arrangements audits are done regularly. Did you want to speak to that?

Hon ALISON XAMON: Who is undertaking those audits?

Miss ABBOTT: The State Supply Commission has the powers to do the audit. Given the administrative arrangements between Finance and the State Supply Commission—the State Supply Commission is effectively administered by Finance—those go through my team. The State Supply Commission audit process is conducted for some agencies annually; for other agencies it is every second year. It depends on the amount of purchasing they do. There is a balance of how much we require agencies to go through in terms of that check and balance, with the effort they have to either engage external auditors or they have their internal auditors who need to get it into their internal audit framework. We have guidelines about what an agency should be doing as templates that guide the auditors through what things they should be checking. Of course, if they have an external auditor, or even if they have an internal auditor, they have some professional judgement because they are probably more skilled in undertaking an audit than Finance is. When we get those documents that have been completed by the internal auditor or external auditor, we look through the findings. We look through their identified noncompliances. There are figures in there in terms of how many, say, contract management plans they have had approved and how many tender processes they have gone out for. We will do things like when they say it is over \$250 000 and they have gone out to a certain number of open tenders, we try to look on Tenders WA to do some spot checks on whether that actually mirrors the figures they have provided to us. It is an extensive and sometimes a time-consuming process to go through, so that is something that we are looking at in terms of assessing systemic things we can do to improve that data comparison so that we have a bit more ability to delve into the reasons for the noncompliances.

As part of that process we then make some recommendations to the agency. I am speaking with a different hat on than my STRC adviser hat: if we have identified some concerns on behalf of the State Supply Commission, we will write to the CEO and identify if we have concerns, and then either with the Department of Finance, or we ask the Department of Finance on our behalf, we meet with the agencies and talk about how they can improve their systems and how they can potentially improve their capability. We have training programs that we refer them to. Given that this is a process that has been in place for the last—I think we are in the middle of the third time at the moment—we have been starting to track trends to see if there is actual improvement, or if they have been addressing some of the concerns that we have identified to them. For instance, if they consistently have their internal procurement policies out of date, and that has been something that has been identified in the audit, we go back to them and say, “This is the second or the third time that you have said it. Let’s have a discussion rather than just highlighting this for your attention on the assumption that you will rectify it.”

Mr CAREN: In my agency, we have a procurement audit every year. That audit is tabled with our internal audit committee, which includes the Office of the Auditor General, and as CFO I welcome the scrutiny because you want to find out the problems before they get out of hand, and you take action.

Hon ALISON XAMON: I have a final question. It sounds like you are in the process of appointing a chair and there has been a process of maybe reassessing or re-evaluating the way this particular committee is functioning. If you had the power to make these decisions, what other sorts of changes to the authority of the committee, make-up of the committee or capacity of the committee would you recommend in order to better equip your functions? This is your chance to give us your wish list.

Ms AHEARNE: That is a really good question.

Mr VAN DONGEN: I might jump in here. There are only the four of us. At the moment we are on a fortnightly rotation. We used to be every week. The demand of reading five or six procurement processes takes at least half a day if you want to get it right. We all have day jobs and we all have fairly important day jobs. I guess what I would be looking for is some more people, some more expertise. If they are technical or people with the experience similar to what is around this table, if we had more of those people —

Hon ALISON XAMON: You could rotate around?

Mr VAN DONGEN: We could rotate it around. It is hard work, though, and people out there, public servants out there, know that it is hard work. It is going to take at least half a day out of your work day. So if you are busy already, which we are, it is a tough gig. That is probably the biggest one I would flag.

Hon ALISON XAMON: A greater pool of people from which to draw?

Mr VAN DONGEN: Yes.

Miss ABBOTT: So to clarify that four, that is in relation to the four external advisers.

Mr M. HUGHES: What about a secondment process. I ask just in terms of understanding the reason why you would come from agencies that have experience in this area.

Mr VAN DONGEN: It is doable to do a secondment, but a full-time secondment would be difficult to manage because you really are talking about a day out of a week. You go to a meeting every Wednesday. Typically, I get my papers and I read them on the Tuesday night so they are still fresh and with me, but that is it. It is quite intense for one day out of every week. So getting a secondment might not be the way to go. What we really need is a pool of people to be able to say, "Look, this week I cannot make the meeting because I have something on in my own agency and I need someone to step in." At the moment we cannot do that because there is only the four of us.

Hon ALISON XAMON: Mr Thompson, you were about to say something too.

[11.10 am]

Mr THOMPSON: I think also that the thing we have been experimenting with over the past 12 months is our impact on culture. There are two ways you can run this committee: review and critique, so that when people walk into a room it does not feel great for them and they are not at their best; and test and improve. We are trying to step the balance between test and improve, so we can help coach and mentor—they go away with a better plan—and review and critique. We are trialling slightly different approaches to the way we engage the people.

Hon ALISON XAMON: That is a decision of the people who are currently making up the committee, is it not? That does not involve any constitutional review or anything like that?

Mr THOMPSON: Correct; that is just a style.

The CHAIR: Mrs Harris, do you have any views?

Mrs HARRIS: A few weeks back, we did actually touch on having someone from ODG to come and sit on an ICT one. We did talk about that. We have not progressed it. I do not think we have seen anything from ICT recently, but that was a discussion that we thought was a good option for us.

The CHAIR: Ms Ahearne, you mentioned things attracting criticism in relation to decisions or what have you. Given that the committee does not have any decision-making power per se—in other words, your decisions are not binding and it goes back to the agencies—presumably your committee does not attract any criticism at all?

Mr CARREN: We are not popular.

The CHAIR: Why do you say that?

Ms AHEARNE: I do not think people love appearing before us. They probably have a similar sense of trepidation to walking into this room!

Mr CARREN: Whilst our recommendations are not binding, they are normally adhered to and well received; that is my experience.

Mrs HARRIS: Respected.

Mr CARREN: Yes. We had one recently where there were significant problems there and we sent the agency away.

Hon ALISON XAMON: Which agency was that?

Mr CARREN: It was actually my agency—Communities. That is embarrassing. That is an example of where it was not good. They have taken the feedback and they are coming back with a better effort. I think that for it to be binding, the power—the accountable authority—would have to be moved by being the director general or the CEO to us. It can only be one, so I do not see how we could be anything but an advisory body, unless we became the accountable authority.

Miss ABBOTT: Bearing in mind that some projects will also have additional project control groups. If it is a particularly high-priority, high-value or high-risk project for an agency. I cannot name them off the top of my head, but I do know that, say, the medical imaging replacement procurement, that has a project control board. Having too many masters may actually create some confusion or conflict with how an agency decides to procure, and procure efficiently as well. Trying to find the right balance between supporting a procurement process being done efficiently but also having checks to make sure that there is no fraud, corruption or other activities that would —

Hon ALISON XAMON: Or just bad procurement.

Miss ABBOTT: Yes. That would affect the procurement outcome for the community.

Mr VAN DONGEN: We do tend to ask some difficult questions of the agencies that come before us, especially in the emergency services space—you spoke about that model. We asked them how they related to the Australian practice. If you are going to buy something in Austria, how does that fit in with the rest of Australia; how does that fit in with regional Australia? We do ask those probing questions. We asked the police regarding the helicopters why they went overseas and how many times they went overseas. We do ask those questions.

The CHAIR: That question is canvassed, is it? Is there a little box for them, admitting that they did go overseas?

Mr VAN DONGEN: No, it was actually in the procurement plan that they went overseas, so we asked them why and how many. We do read them, and from our experience we ask those questions to satisfy ourselves.

Ms CORBETT: Can I just add one more point in relation to the need to have IT specialists? I am not sure whether you are aware, but IT projects are also required to undergo a Gateway review, completely unrelated to our process or, in fact, to the procurement process. I am actually a Gateway reviewer and I used to run that team. When those reviews happen, we do get quite experienced people in the subject matter of IT to do the extensive—and, as a reviewer, quite exhaustive, frankly—process that is Gateway.

Hon ALISON XAMON: Yet we still manage to do it incredibly badly. I draw your attention to the SMS within TAFE and what a complete debacle that has been. Clearly we still have not got it right.

Ms CORBETT: There are limits to what a Gateway review can do, even though it is exhausting.

Hon ALISON XAMON: Clearly.

Miss ABBOTT: Again, a Gateway review provides recommendations and how an agency actions those recommendations fortunately, and unfortunately, sits with the agency.

The CHAIR: I cannot remember the last time that a DG has been hauled over the coals for procurement inefficiency or stuff-ups or whatever. One of our concerns is that the buck does not seem to stop with anyone. Anyway, enough of editorialising.

Thank you all for coming, and thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for the correction of minor errors. Any 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 any particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence.

Hearing concluded at 11.17 am
