



LEGISLATIVE COUNCIL STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

2018-19 ANNUAL REPORTS – QUESTIONS PRIOR TO HEARINGS

Department of Finance

Hon Tjorn Sibma MLC asked:

1. Regarding the 75 projects delivered by the Department of Finance on behalf of other departments referred to on page 6 of the Annual Report:

- (a) compared to the option of departments delivering their own projects, what are the costs and benefits of the department delivering the projects;

Answer:

The Department has limited visibility of other agencies' project delivery costs and therefore a direct comparison is not possible.

Since July 2016, the Department has charged agencies a fee, on a per project basis, that reflects the actual costs for managing capital works projects. Primarily, the charges are based on the actual time project managers spend on the project, and include project support costs.

The benefits of a central agency such as the Department of Finance delivering projects on behalf of other departments are:

- a higher level of expertise in specialist areas including project management, legal dispute resolution, building technology, probity, and contracting;
 - an enhanced degree of market power due to volume of works managed and tendered annually; and
 - consistent application of the State's social and policy objectives.
- (b) does the Department have criteria for accepting projects and what is that criteria;

Answer:

The Department has no set criteria for accepting projects.

The Department's Building Management and Works is the delegated authority for the Minister for Works under the *Public Works Act 1902*. This enables the Department to undertake non-residential building works procurement on behalf, and at the request, of general government agencies. The Department works collaboratively with these agencies to ensure the delivery of public works projects proceeds in accordance with the State's legislation, policies and guidelines.

- (c) what is the impact on the Department's resources in delivering these projects; and

Answer:

Projects are foreshadowed in the budget papers. This enables the Department to prioritise its resources accordingly and to scale up or down based on the predicted volume of works.

- (d) how is the accounting for these projects managed and reported between departments?

Answer:

The Department tracks and reconciles project expenditure through the life of the project. Project billing and reporting to the relevant government agencies occurs on a monthly cycle.

2. Regarding organisational restructuring referred to on page 13:

- (a) How much has been spent on the organisational restructuring of the department; and

Answer:

For the year ending 30 June 2019, \$122,000 for consultancy costs for planning, customer consultation, functional model design, and the cost of developing the OneFinance opportunities blueprint; a holistic transformation program, that identified opportunities, gaps and assessed the value of change.

For the period ending 30 June 2019, \$132,000 in salary costs for three FTE to coordinate the reform and associated proposed restructure.

- (b) the proposed organisational restructuring has seen the Department go from a structure where the Director General oversaw 5 divisions, to again overseeing 5 divisions but with different names. What is the effective difference of this arrangement?

Answer:

The proposed structure realigns service delivery according to customer need and is based on feedback from customers and staff about opportunities to streamline and improve service delivery, remove duplication and encourage innovation. The functional structure outlined in the Annual Report describes in an intuitive way, services available to the customer:

Deliver – Build and Buy provides a wide range of asset management and related services for agencies, including procurement and project management, and manages a significant non-residential building portfolio.

Advise is a cross-government functions that provides strategic policy advice and functional leadership to the Department of Finance, agencies and Ministers.

Collect (largely based on the services provided by State Revenue) provides best practice revenue collection through effective legislation and policy frameworks, as well as administering grants and concessions.

Service and Invest delivers support and business improvement services to the Department of Finance and select agencies.

Service WA coordinates the Government's pilot project aimed at putting customers at the centre of service delivery.

The proposed design is centred on making it easier for customers, both the community and government, to do business with the Department.

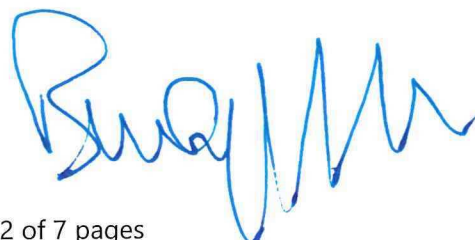
3. Regarding the unethical behaviour in procurement on page 19:

- (a) with respect to "recent investigations into unethical behaviour in procurement" please outline the number of those investigations and their associated outcomes; and

Answer:

The statement on page 19 primarily relates to two procurement reviews:

- 1) the Corruption and Crime Commission (CCC) *Report into bribery and corruption in maintenance and service contracts within North Metropolitan Health Service* (the "Report"), tabled in Parliament on 16 August 2018; and



- 2) the Public Sector Commission's (PSC) Independent Review of Contracts (the "Review"), which examined all existing contracts with the companies named in the CCC Report, tabled in Parliament on 20 November 2018.

The findings of both reviews are a matter of public record. Additional copies of the CCC Report and PSC Review can be provided on request.

- (b) how have those investigations been responded to, and what efforts are being initiated to reduce similar future incidents?

Answer:

On 21 August 2018, the Deputy Premier outlined the Government's response to the CCC Report in Parliament. While not involved in all aspects of the response, the Department notes the following with respect to the CCC Report:

- five individuals are known to have been charged (to date), all of whom have subsequently pleaded guilty to various offences, including fraud, bribery and corruption;
- all contracts identified through the PSC Review have now been finalised and/or terminated, including those initially noted in the report as being in the 'defects liability period';
- the Government has reviewed the status and suitability of the contractors named in the CCC Report and decided they should be ineligible to receive future State Government work for certain periods of time – further details are publicly available on the Tenders WA website under "Latest News"; and
- a significant emphasis is being placed on the Procurement Reform Program to improve procurement practices across the public sector and within industry, which will include the introduction of a new Procurement Act and an ethical procurement framework.

The Department also notes the PSC's "governance review" of the North Metropolitan Health Service (prepared by KPMG) and the Department of Health's response to it, both of which were tabled in Parliament on 5 September 2019.

4. Regarding the Works Agency Council on page 21:

- (a) which agencies were invited to participate in the Works Agency Council; and

Answer:

The following agencies were originally invited to participate in the Council:

- Department of Communities' Housing Authority;
- Main Roads Western Australia;
- Public Transport Authority;
- Water Corporation; and
- Western Power.

The Departments of the Premier and Cabinet and Treasury also participate as key stakeholders.

- (b) which agencies responded to that invitation and how did they respond?

Answer:

All agencies invited to attend provided a representative to the Council.



5. Regarding Market Led Proposals (MLP) on page 21:

- (a) since enactment of the policy on 12 April how many proposals have been received and from whom and for what purpose;

Answer:

The Market-led Proposals Secretariat has received several proposals (via the prescribed pre-qualification template) from industry since the MLP policy was launched on 12 April 2019. The specific number and nature of the proposals remains confidential to protect the intellectual property of the proponent and to provide participants with confidence in the integrity of the process. This is consistent with the disclosure section of the Cabinet approved policy.

- (b) have unions submitted any proposals;

Answer:

The specific number and nature of the proposals remains confidential to protect the intellectual property of the proponent and to provide participants with confidence in the integrity of the process.

- (c) how are such proposals reported, for example, how does anyone other than the department know what is going on;

Answer:

The Market-led Proposals Secretariat maintains a register of all proposals submitted. The MLP Steering Committee, led by an independent Chairperson reports to Cabinet regularly on all proposals lodged and their status within the pre-qualification stage.

Should proposals proceed to Stages 1 and beyond, a high level summary of each proposal and the outcome of the evaluation of each proposal will be made public (via the Market-led Proposals page on the WA.gov.au website) at the end of Stages 1, 2 and 3.

- (d) if significant expenditure arising from an MLP, how is that budgeted by agencies;

Answer:

By their nature, MLPs generally may not have been factored into the annual State Budget and forward estimates which can, at times, mean that MLPs are unaffordable in the context of existing priorities. The Government will also consider any potential accounting impacts of the proposal. For example, some projects can involve no State funding however still impact on the State's balance sheet.

- (e) are there any exclusions of who can submit an MLP; and

Answer:

There are no exclusions of who can submit an MLP. However, the MLP Policy states the types of proposals that will generally not be considered include those that:

- are dealt with by an existing government process that is underway;
- seek to obtain industry assistance and other grants currently available and considered through existing programs;
- relate to a project or program that government has already decided and/or announced will be released to the market;
- are not required to be subjected to a competitive procurement process; or
- have a total estimated value below the threshold that would require a competitive procurement process (as specified in Western Australian Government policy and/or legislation).

- (f) can an MLP be submitted in competition for a contract that already exists but is due to expire or be up for renewal?

Answer:

Whilst all MLPs can be submitted and reviewed within the pre-qualification process, all proposals will be evaluated against the following criteria:

1. *Strategic Alignment*

The proposal is aligned with government policy objectives and priorities.

2. *Public Interest*

The proposal has significant social, environmental, economic or financial benefits for Western Australians.

3 *Value-for-money*

The proposal represents value-for-money for Western Australians and is affordable in the context of budget priorities.

4. *Feasible and capable of being delivered*

The proposal is feasible (including financially) and the proponent has the financial and technical capacity, capability and experience to deliver the outcome successfully. Detailed due diligence on the proponent (including any parent and subsidiary companies) and the proposed financial and corporate structure of the proposal will be undertaken in evaluating this criterion.

5. *Risk*

Any financial, reputational and/or security risks to government from the proposal are acceptable and there is an appropriate allocation of risk between the proponent and government.

6. *Justification for exclusive negotiation*

The proposal delivers outcomes that are not likely to be obtained using standard competitive processes and within acceptable timeframes and therefore justifies exclusive negotiations with government.

6. On page 27, regarding the WA Industry Participation Strategy (WAIPS):

- (a) the WAIPS is referred to in the report as a vehicle for delivering local jobs and apprenticeships. As an explicitly sought outcome, how does the Department measure the number of jobs that are created by the projects it delivers;

Answer:

The Department of Jobs, Tourism, Science and Innovation (JTSI) is responsible for measuring and reporting on the outcomes of WAIPS, including jobs supported through the initiative. The reports will be presented to Parliament annually, in aggregate, by the Minister for Jobs.

The Department of Finance reviews WAIPS reports to assess the degree to which contractors are meeting the commitments made in their plans.

- (b) if the DoF does measure jobs created, how many have been created against the value of the projects;

Answer:

The Department does not measure jobs created. It receives Participation Plans and Participation Plan Reports from the contractor for transmittal to JTSI.



- (c) are those jobs ongoing or only for the duration of the project; and

Answer:

The WAIPS participation plan template asks prospective suppliers for workforce numbers related to delivery of the particular contract. The plan does not address whether jobs are ongoing or contract-specific.

- (d) if the DoF doesn't measure jobs created, why not?

Answer:

As the Department responsible for implementing, managing and reporting on WAIPS, JTSI measures jobs supported. The Department of Finance does not seek to duplicate this role and, where relevant, would rely on the data collected by that department.

7. On page 58, reference is made to the "Responsible Supplier Pact":

- (a) what are the 'ethical procurement principles' the Department is drafting/has completed;

Answer:

The Principles and Commitments, together with the Code of Conduct, form the Responsible Supplier Pact.

The Responsible Supplier Pact is still subject to review, which will attempt to incorporate the feedback received as a result of the public comment period.

- (b) what are these principles and why were they chosen;

Answer:

Although not finalised, the Principles currently are:

- diversity makes good business sense and delivers results;
- all workers have the right to return home safely from work;
- all workers have the right to fair working conditions;
- leadership, and strong governance forms the basis of a strong economy; and
- the State's diverse and rich environment deserves protection.

The draft Principles were released for public comment and represent aspirational statements for the ethical supply of goods and services to government.

- (c) are the principles being applied to Government procurement decisions; and


Answer:

The Principles are overarching policy aims that underpin the Code of Conduct. The Code of Conduct will be incorporated into procurement decision-making.

- (d) how has this "Responsible Supplier Pact" been received by stakeholders?

Answer:

Overall the concept of a Supplier Pact has been well received, however, views from different groups range from 'sufficient' to 'not aspirational enough.' The Department of Finance is refining the Pact and undertaking further consultation in an attempt to reconcile and address these different views



8. I note that the supplier code of conduct encourages industry to: Deliver fair work conditions; Provide safe and healthy workplaces; Operate in an environmentally sustainable manner; Act inclusively; and Refrain from corrupt, fraudulent and illegal behaviour. As these conditions reflect what is already required by legislation, is what the DoF is seeking place greater demands on suppliers:

- (a) If so, please explain why this is the case; and

Answer:

In some instances, yes. Government is rightfully held to very high standards by the public in relation to public expenditure – standards which often exceed those expected by law and extend to moral and ethical obligations. The code of conduct encourages suppliers that partner with the WA Government to uphold similar standards and therefore strengthen integrity within the supply chain.

- (b) If not, then why duplicate standards that have been already been imposed?

Answer:

Not applicable

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