

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

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



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 17 SEPTEMBER 2018**

SESSION TWO

Members

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

<008> H/K [1:48:39 PM](#)

Hearing commenced at 1.48 pm

Ms NINA LYHNE

Acting Director General, Department of Transport, examined:

Mr PETER WORONZOW

Acting Managing Director, Main Roads Western Australia, and examined:

Mr PHILIP D'SOUZA

Acting Executive Director, Finance and Commercial Services, Main Roads Western Australia, examined:

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today. I am Margaret Quirk and I am the Chair of the Joint Standing Committee on the Corruption and Commission. I will introduce the other members of the committee today: Hon Alison Xamon, MLC, on my right; Hon Jim Chown, MLC, on my left, the Deputy Chair; and on his left, Mr Matthew Hughes, MLA, who is the 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.

Before we commence, do you want to make some general comments?

Ms Lyhne: If I could just make a very brief opening statement. In line with the statement that I made at the hearing of the Department of Transport, I would like to say that obviously we take our responsibilities in this area very seriously. In addition to having appropriate practices and procedures in place to ensure that goods and services are purchased in an appropriate manner, we also put a lot of emphasis on the culture that we have within the organisation and the Main Roads part of the organisation, and are constantly seeking to reinforce a good culture. In fact, a new integrity framework has been introduced as part of that in Main Roads, and we would be happy to answer any more questions that you might have around that.

The CHAIR: I will start with the standard question. The Langoulant review, which looked at government programs and projects, found that the transport portfolio should be subject to review to introduce greater transparency in procurement and contract management. In the context of Main Roads, what steps have been taken to increase transparency around procurement and contract management, and how can the WA public be assured that corruption is not taking place at Main Roads if there is no transparency around procurement?

Mr Woronzow: I will kick off. Since the review was published, in collaboration with the State Solicitor's Office we now have two dedicated people from the State Solicitor's Office who take part in any major contracts. They take part in helping decide what is the most appropriate procurement method. They help put those contracts together and they are dedicated to provide advice throughout the life of those projects or contracts. In addition to that, and one thing that was not mentioned in the Langoulant review, and it goes back a long way: all our major projects and contracts, on the tender evaluation panel we have an independent person. We were the first agency to introduce probity auditors. In the early 1980s, we introduced the concept of a probity auditor and we actually wrote the policy. Around independence and oversight, we think we have a very

strong framework. All our contracts—who has tendered, who is selected, what the contracts' pre-qualification categories consist of—are added into a system which was developed in-house. We have a record of any procurement that takes place in Main Roads. We have a database of all those procurements. One of your questions, Madam Chair, related to oversight. We have a fraud detection or, for want of a better word, integrity framework, that involves 36 individual actions which take place throughout the procurements and throughout the year to detect fraud and procurement—just a couple of those things. I am happy to table that list.

The CHAIR: That would be excellent, thank you.

Mr Woronzow: I am very happy to do that. What is buried in that checklist of 36 actions is that we have, besides doing our own data analytics, to look at things like checking employees' addresses with where payments go for contracts. We have two of the big four accounting firms—KPMG and EY—doing their own data analytics to try to detect any inappropriate actions within that procurement framework.

<009> I/C [1:54:00 PM](#)

The CHAIR: Is that done on an ad hoc basis, or do they have a contract to do regular audits? How is that done?

Mr Woronzow: They have a contract to do regular audits. We do our own monthly and bimonthly data analytics, but both EY and KPMG do regular audits throughout the year, which includes data analytics.

Hon ALISON XAMON: With the data analytics, did you purchase that in-house? Is that something you have established? How did you come about doing that?

Mr Woronzow: How we came about doing that? It probably arose five or six years ago where we had some allegations of impropriety on some of our long-term maintenance contracts in the south west. As a result of that, the minister at the time, Minister Buswell, asked us to do some further investigation and the data analytics basically grew out of that. So, besides doing that initial investigation of the long-term maintenance contracts in the south west, we roll that into all our long-term maintenance contracts and then, as a result of that, we have introduced that to our entire contracting supplier database of transactions.

The CHAIR: You mentioned major projects. What level is a major project? Is there a quantity of money, or how do you describe something as "major"?

Mr Woronzow: Sorry; it gets a little bit complicated. I will probably get out of Main Roads-speak. All our contracts for works, contractors are selected off a pre-qualification system. They cannot tender unless they are pre-qualified, so if we are required to use —

Hon JIM CHOWN: Would you like to expand a little on the word "pre-qualified" in regard to your preferred tenderers?

Mr Woronzow: There is a national list of contractors that nationally all the road authorities say have got the level of expertise, the financial capability and the personnel to do work on major contracts. Those, I suppose, are roughly anything over \$1 million in the road space. They run from what is called an R1, which is relatively simple. A lot of the works that you see done on the regional network between \$1 million and \$1.5 million are R1 and R2, and they go up to R5, where contractors that tender for works that are significant and complex, they need a level of ability to express to Austroads, who manages that pre-qualification project, that they have the technical, financial and other abilities to adequately manage a contract if they win it.

The CHAIR: I am still trying to find out the initial question. You were saying that some contracts went to this tender board with the independent person on it. I am just trying to work out which go there and which do not.

Mr Woronzow: Generally, it depends on the complexity and the level of risks around them, but anything over \$1 million would generally —

The CHAIR: Okay, thank you. Just before I let the very patient member for Kalamunda ask a question, the other issue you mentioned in relation to that board was having an independent person on it. Is that the same person every time, or does it depend on the nature of contract or have you got a number of people that you call on from time to time?

Mr Woronzow: It is the latter. We have a panel contract for independent people to sit on our tender panels.

The CHAIR: What qualifications do they tend to have?

Mr Woronzow: They generally get people who have a procurement background or have an accounting background or just a general background in public sector procurement.

The CHAIR: Thank you. I know this is a bit off the topic, but it comes up in a lot of government projects. When there is an examination as to whether a tenderer is appropriate to undertake works, is there any due diligence done in terms of capacity to pay subcontractors?

<010> Q/C [1:59:14 PM](#)

[2.00 pm]

Mr Woronzow: That is part of the pre-qualification process. As I said, there are three individual assessments which qualify a contractor to be pre-qualified and one is his financial capacity. That is the inclusive financial capacity to pay subcontractors in a timely fashion. At any given time, we probably have between 200 and 300 projects taking place in Main Roads, and at the end of each of those contracts, the project manager or director is required to undertake a post-project assessment. Part of that assessment is the record of paying contractors on time. That information is fed to—we have an internal pre-qualification committee and if there is something adverse in that report, which might be failure to pay subcontractors on time, we will make a decision should we recommend to the national body if that contractor's pre-qualification level should be dropped, or their pre-qualification should cease altogether.

The CHAIR: You did mention earlier that there were some concerns about under Minister Buswell in relation to long-term maintenance contracts in the south west. That raises a couple of questions for me. What came to his attention, and why was that brought to the minister's attention? Do you recall?

Mr Woronzow: Yes, I do recall. It was basically, for want of a better word, a whistleblower writing to Main Roads and to the minister's office about inappropriate selection of contractors and payment practices.

Hon ALISON XAMON: Can I ask, was that a whistleblower that was internal to the department or was it an unsuccessful tenderer?

Mr Woronzow: My recollection is it was anonymous but it came from part of the term contractor's staff. They identified themselves as part of the term contractor's staff but they did not name themselves.

The CHAIR: The other thing in relation to that is what you mean by long term, because I think the longer a contract is, the more inviting it is to do something improper, probably. What is your standard contract for something like road maintenance in, say, the south west?

Mr Woronzow: At the time, those contracts were 10-year contracts. The reason why they were 10-year contracts was it is a great expense for a contractor to mobilise, establish themselves, understand and train people to do the work. As a result of that experience and some of the other lessons that we have learnt, we have just gone through a process of putting in place our next generation—the third generation—of our long-term maintenance contracts. One of the lessons that we did learn is that for those previous contracts, it was basically a cost-plus process where Main Roads was a little bit devolved from making direct decisions about where the maintenance funding went on the roads.

Mr M. HUGHES: Can I ask about that cost-plus arrangement, which, presumably, applied prior to the issuing of the new contracts for that 10-year period. Have you just reissued those contracts?

Mr Woronzow: Yes, we have reissued those.

Mr M. HUGHES: On the basis of cost-plus, just explain what that meant, or what does it mean?

Mr Woronzow: In the previous contracts, those contracts had a schedule of rates to do a certain amount of work and, on top of that, they got profit and overhead at a fixed amount.

Mr M. HUGHES: Would that involve, for example, the assumption that if there is specific machinery required under the terms of that contract, that the acquisition of that machinery was part of the contract?

Mr Woronzow: That is correct.

Mr M. HUGHES: I am interested in terms of the pre-qualified system that devolved. Did that system therefore favour tenderers under the new contract arrangements? Presumably, if they were able to undertake the work on the basis of there being a specific type of machinery or equipment required for the job, how could new tenderers come into the market if in fact they were not able to display that they had that type of equipment? Do you understand what I am saying in terms of that kind of creation of preferential contracts, effectively? I would be interested in who won the contracts under the 10-year arrangement and who has the contracts now.

Mr Woronzow: Under the previous arrangement, there was a list of contractors that ranged from Downer Mouchel to Ventia —

Mr M. HUGHES: How many of the new contractors were the same as the old contractors? Is it the same or a different group?

Mr Woronzow: I think there is probably a 70 or 80 per cent fit. Geographic areas, because they have been retendered—I think there is probably only one contractor that has kept the same geographic area.

Mr M. HUGHES: Were there any preclusions under the old contract arrangements that meant those who had contracted within the metropolitan area were not able to contract outside the metropolitan area?

Mr Woronzow: They were limited to, from memory—I will have to check that—only having two of the eight contracts.

Mr M. HUGHES: Under the new contract arrangements, has that changed?

Mr Woronzow: It has changed to the extent that they could only have one of the metropolitan contracts.

Mr M. HUGHES: This term “pre-qualification,” given what we have understood about the previous 10-year arrangement, effectively could it constrain the ability of new entrants into the marketplace to actually perform in accordance with the new contract specifications?

Mr Woronzow: I think just the sheer scale of those contracts—because they are 10-year contracts. To give an example, the 10-year contract in the Pilbara is worth about \$20 million or \$30 million a year, so it is worth \$300 million. The 10-year contract in the metropolitan area is worth about \$50 million or \$60 million a year. Just the sheer size of those contracts and the financial commitment around planning and people in itself precludes a lot of people actually wanting to tender for that type of work. Having that limitation that you cannot have more than two, if you had four or five contractors in the market already, I just do not think that there are enough contractors in that space in WA that are willing to have a go, other than what we have got.

The CHAIR: You mentioned in relation to the third south west contract that part of the reason there was a problem was the responsibility was devolved from Main Roads. Who was it devolved to?

Mr Woronzow: It was devolved to the contractor so, under that model—I am glad to say that for the current generation of contracts, we have a different model—the contractor on the network would determine generally what work was required to be done to maintain that network in the condition that was set in the contract. Those contracts were output required, so they were given part of the network. Over the 10 years, they had to maintain that network to a standard that was set in the contract. For the new contract, Main Roads in consultation with the contractor, determines what work is required to be done. We have a hands-on role on the network in determining what work is done.

<011> F/K [2:09:03 PM](#)

[2.10 pm]

Hon JIM CHOWN: Previously you stated that you have an internal category—I think it is R1 to R5—for tenders out there. You have also stated that there are at least 400 contracts current at the moment. I assume R1 to R5 is actually a dollar figure for work, is it?

Mr Woronzow: No, the pre-qualification system changed a couple of years ago. The pre-qualification system is now based on complexity and risk and financial ability, as opposed to going back two or three years when it was a dollar figure on categories.

Hon JIM CHOWN: All right. So out of those 400 current contracts that are now operational, I assume —

Mr Woronzow: That is correct.

Hon JIM CHOWN: How big is the pool of contractors? Is it 400 separate contractors? How many people are actually undertaking these works, as a company entity, as an individual, a partnership or whatever? Would you know that figure?

Mr Woronzow: Not off my head. I am happy to provide that information.

Hon JIM CHOWN: Okay. We will put it on notice, then.

Mr Woronzow: Obviously—sorry, I will take it on notice.

Mr M. HUGHES: Just for clarification, do you effectively have a head contract with a particular firm, who then does the subcontracting? I apologise if I have the language incorrect, but how many main contracts are there?

Mr Woronzow: There are eight.

Mr M. HUGHES: So there are eight main contractors. How many are in the metropolitan area?

Mr Woronzow: There are two, and an electrical contractor.

Mr M. HUGHES: So, effectively three. And what is the value of the contract work within the metropolitan area?

Mr Woronzow: It would be over \$100 million a year.

Mr M. HUGHES: A question arises from that. It has been pointed out that of all the jurisdictions in the commonwealth and wider, we are the only one that actually contracts out this type of work—is that right?

Mr Woronzow: No, every jurisdiction now contracts out their maintenance work.

Mr M. HUGHES: Okay; we got that wrong.

Mr Woronzow: One thing that I think is worth the committee knowing is that we were the first jurisdiction to contract out maintenance work. We have gone through a number of iterations where we think we have learnt some lessons, and we are trying to refine the process.

Mr M. HUGHES: So all the other jurisdictions and the commonwealth have followed suit.

Hon JIM CHOWN: This investigation or inquiry is about procurement and the process of procurement within various departments and the possible fraud that takes place in procurement. It is a large figure. I mean, the number, on a state annual budget basis, is \$7 billion. What breaches have you identified under your process in regard to procurement?

Mr Woronzow: We have a couple of examples.

Hon JIM CHOWN: Within Main Roads?

Mr Woronzow: As an example, I am happy to table those. I am not sure if these examples were included in our submission. What I have is examples of seven cases we have identified. As an indication, in 2016–17 we identified a case of inappropriate procurement which related to one of our employees providing work to a family member. As a result, we terminated that employee's employment. In 2017 we became aware of an employee accessing and disclosing confidential information, and we terminated that employee's employment. We have a document that gives guidance to people about where inappropriate actions in the procurement process or other parts of our business take place. It gives them guidance about who to talk to but also what is the most appropriate course of action. I am happy to table that as well, if that is useful.

Hon ALISON XAMON: You have given a couple of examples, but how many times in the last 12 months has Main Roads had to refer matters to either the CCC or the Public Sector Commissioner, specifically around procurement?

Mr Woronzow: For procurement, two.

Hon ALISON XAMON: Are they the two cases you have just said? One you said was not 12 months ago; it was a bit further back.

Mr Woronzow: In the last 12 months there were two, to my knowledge. One relates to information that was brought to our attention by the CCC themselves. Mr D'Souza might be able to better answer. If you broaden the spectrum, obviously we do our internal work, but the CCC also identifies things from time to time that require us to investigate. I can only think of the two.

Mr D'Souza: I am only aware of the two instances over this last financial year, 2017–18.

Hon ALISON XAMON: I think one of them was one of the ones you just mentioned, which resulted in dismissal, from what I heard. What happened in the other instance?

Mr Woronzow: The committee is probably aware of it, it was in the paper—there were some allegations about a contractor in the south west providing work to a traffic management company. There were allegations of a relationship between the contractor and the owner or a senior employee in that traffic management company.

Hon ALISON XAMON: Did that result in dismissal?

Mr Woronzow: We have provided an interim report to the CCC and it is subject to some ongoing investigations. We have done our own review, but we have also asked the contractor to investigate and give us a report on their view of what has actually transpired.

Hon ALISON XAMON: Does the CCC tend to refer complaints back to Main Roads for investigation in the first instance?

Mr Woronzow: Through the Public Sector Commission. Very rarely they directly refer them to us. They are usually referred through the Public Sector Commission.

Hon ALISON XAMON: Okay.

Hon JIM CHOWN: This is a similar question I asked the Department of Transport. You have a very specialised brief, I guess, in Main Roads. Obviously your pool of contractors is quite limited in who you can take tenders from. You have already explained from the maintenance perspective that it is on 10-year contracts, so that they can understand what their workload is and get the required machinery and upskill their workforce. How do you ensure through your procurement process that some collusion does not take place between different tenderers?

Mr Woronzow: At the start of those long-term contracts, if I can just refer to those —

Hon JIM CHOWN: You have just stated that you have 400 contracts on the go today. I do not know; maybe it is 10 or 20 people who are taking up those 400 contracts.

Mr Woronzow: Each of those tenderers have to sign a document saying that they do not collude. That is part of the tender process. In terms of the process, for a lot of our large works contracts we go through a two-stage process. We do expressions of interest and then we do a request for proposal. If, through the first stage, we do not get what we think is a competitive field—I suppose to answer the member's question, if at the EOI stage we are just down to two respondents, we will broaden the field to always have a minimum of three.

Hon JIM CHOWN: After the EOI process and you have got two tenderers, how do you broaden the field to bring in other people?

Mr Woronzow: We will either reissue that EOI, or if there is some reason that we think we are not getting a competitive field, we may even cancel the contract and look at amalgamating it and rescoping it so we get a more competitive field.

<012> D/K [2:19:19 PM](#)

[2.20 pm]

Hon JIM CHOWN: I will go back to the key word and that is “collusion”. Other than the process you have just described —

The CHAIR: Is that Donald Trump's definition or just the normal one?

Hon JIM CHOWN: Just the normal one. You are comfortable with your process—that it ensures that collusion does not take place between prime contractors for major projects and they do not say, “You can take this \$10 million contract and I will take the next \$6 million one, but we'll both put a tender in; mine's going to be less or not to the specification so you get it”?

Mr Woronzow: I am, and there is probably a whole range of things that gives me that confidence. We have talked about the pre-qualification system. We have talked about how they have to sign the statement saying they are not colluding with anyone else. We have within Main Roads, which is a little bit unique to a lot of contracting organisations that deal with public works, what is called WARCMIAG; it is an industry advisory group. All the industry bodies attend. We have a meeting

every two months. Industry, by itself, is quite self-regulating. The road industry is quite competitive at times and there are different peak bodies like the CCF and the CCA. There is constant tension between the smaller contractors and the larger contractors. By the mere fact you have that meeting and what is in the marketplace, we discuss our program of works on a quarterly basis. We discuss what is going to be tendered with what pre-qual level. So with that and those other things I mentioned collectively, I think we are well placed around collusion.

Hon JIM CHOWN: Have there been any instances brought to your attention regarding collusion?

Mr Woronzow: Not in my memory.

Hon JIM CHOWN: It does not exist; is that what you are saying?

Mr Woronzow: I would like to think they do not exist, but there are none to my knowledge that have been brought to our attention.

The CHAIR: How many employees within Main Roads would have a—Mr D’Souza might be better placed to answer this; and, if not, you can take it on notice—purchasing card?

Mr D’Souza: In terms of corporate credit cards, purchasing cards?

The CHAIR: Yes.

Mr D’Souza: We have probably got about 450 cards.

The CHAIR: And what limits are they at?

Mr D’Souza: Depending on the nature of the role, they would have a limit of up to \$20 000 for the majority, because that is our minimum purchasing threshold to be able to use a corporate credit card for a transaction.

The CHAIR: And what audits do you have in relation to corporate credit cards?

Mr D’Souza: We have monthly based internal audits that are done through our centralised procurement team, who actually conduct spot check audits on transactions that are done or processed or acquitted. They also perform data and analytics that Mr Woronzow spoke about every month to identify if there are any patterns or anomalous transactions or something indicating that perhaps a corporate credit card is not the most appropriate approach for that and something might need to go through a proper tender-based process.

The CHAIR: If there were some consistent irregularities within a particular officer’s purchasing patterns, would the DG necessarily know about it?

Mr D’Souza: Depending on the nature of what that entails, we will conduct an internal covert investigation. We will inform the appropriate people—so, myself as effectively the CFO. We will inform our manager of legal and commercial services, who is our public interest disclosure officer as well. We will inform our manager of management review and audits—that is the internal audit section—and more than likely our manager of supply and transport, who is head of procurement and has had an involvement. If we need to involve our executive director of human resources—they are the team that deal with employee-based matters or misconduct—we will inform them. Depending on the nature of that, contact will be with the managing director and the Commissioner of Main Roads as well.

Hon JIM CHOWN: You guys have got your own integrity team in regard to procurement processes and you have gone some way in explaining what that process is. In regard to tenderers or preferred tenderers, are you pursuing tenderers to have a similar process as part of their tendering arrangements?

Mr Woronzow: We do. On the term contracts, at the start of those maintenance contracts, we sit down with the contractor and agree their procurement processes. There are high-level procurement processes—State Supply Commission processes—around open and effective competition. We are required to follow those. Then on our major capital works projects, even though we do not sit down and require them to do that, they have to give us an undertaking that they will source any subcontracts competitively.

Hon JIM CHOWN: What stage of the tender process does this examination of their integrity in regard to procurement take place by Main Roads?

Mr Woronzow: Before they actually —

Hon JIM CHOWN: Before they submit?

Mr Woronzow: Before they submit. That is part of the pre-qualification process.

Hon JIM CHOWN: So they have to submit to Main Roads, if they are going to tender for a contract at some stage in the future, their own internal processes in regard to, at the very least, stopping fraud and ensure that their internal processes have a great deal of integrity around them before they can actually become part of the tender process. Is that what you are saying?

Mr Woronzow: No; sorry if I have misled you there. We do not require them to do that at the moment. The pre-qualification process picks up some of those elements. One of the things as an opportunity for improvement is we are currently having some discussions and thoughts about requiring them to sign a statement in terms of exactly what you are talking about before we will accept their tenders going forward. It is something we do not do at the moment.

Hon JIM CHOWN: So you are looking into it at the moment?

Mr Woronzow: We are looking into it at the moment.

Hon JIM CHOWN: When will that decision be made and why is it not part of the process now, because there is a responsibility on both parties? At the moment, Main Roads is carrying all the responsibility if a fraud takes place.

Mr Woronzow: Why it is not there now is there has been a reluctance—we have taken guidance from industry in the past—to interfere with a contractor's supply chain, because that is where he gets his competitive advantage. They go through a competitive process, obviously. They win a contract. It is usually based on price and capability. How they are able, through the life of that contract—works contracts are usually 12 or 18 months—to maintain their price that they have tendered is they have got well-established supply chains. They might have preferred suppliers. They may have a group of works which they will tender on a regular basis. The advice that industry has given us, and they have given it to us through that industry advisory group, is that they have not wanted Main Roads to interfere in that.

Hon JIM CHOWN: But someone has to set a standard here, do they not? The department has hundreds of millions of dollars at its disposal to these contractors. I would have thought it was a really good idea.

Mr Woronzow: We think it is a good idea and that is why we are currently investigating it.

Hon JIM CHOWN: So where is the pushback coming from?

Mr Woronzow: Again, traditionally it has come from industry around interfering in their supply chain and allowing them to be able to deliver on the prices that they have tendered. Just as an example, you might take a large contractor like CPB. They might have a contract with us for \$100 million and 80 per cent of that would be subcontracted.

Hon JIM CHOWN: It is interesting because Sydney rail had this issue. We went to a conference where it became quite an interesting discussion paper and presentation. They did exactly what you are trying to achieve here with their suppliers. They found they saved hundreds of millions of dollars in the procurement process because the suppliers found out that their processes were corrupt at times as well and their profits were less than they should have been when they put in the tenders, because their internal processes were not as tight as the department's. Do you understand what I am saying?

<013> T/2 [2:29:27 PM](#)

[2.30 pm]

Mr Woronzow: I understand.

Hon JIM CHOWN: What I am saying is somebody has to set the guidelines and, in my opinion, if MRD, with its zillions of large contracts out there, do not set a guideline and say to the suppliers, "This is what we require from you before we actually take your tender", it will never happen.

Mr Woronzow: I take the point, but what I was trying to articulate, and I do not know if I have articulated it very well, but you have to temper that with allowing the contractor to deliver a contract for the price that he has put on the table through a competitive process. Now, as I was trying to explain, CPB, for example, with a contract for \$100 million, they will have long-established arrangements, which would have been put in place at some stage. Through a regular process, they are updated through a competitive tender process. They will have arrangements with suppliers to supply goods and services at certain rates, and that is how they have got the confidence to lock in a price, which they will throw on the table to Main Roads to decide if they get the work or not.

Mr M. HUGHES: I struggle to understand the extent to which it can be highly competitive if you only have a couple of suppliers bidding for maintenance contracts. How competitive is that, given that—if I have misunderstood this, tell me, but if you have got the head contract of \$100 million, let us say, and you leave it to the contractor with Main Roads to deal with everything else, how can we be assured that we are getting fair value for money?

Mr Woronzow: I think that there is a misunderstanding there. Out of the eight contracts only—one contractor can win two contracts. So, there is a competitive field for the main contract and —

Mr M. HUGHES: All right. Sorry; I would be interested to know how many effectively responded to, let us say, a contract for the metropolitan area. How many contractors?

Mr Woronzow: Metropolitan area, there probably would have been five or six. All that information is on Tenders WA. So, that has been uploaded there. But the key point, sorry, where we are having a misunderstanding is that once that head contractor is put in place, Main Roads sits down with the head contractor, agrees procurement processes, and those procurement processes are effectively the same as State Supply and Main Roads' processes, where they have to competitively tender or competitively source everything for that maintenance contract.

Mr M. HUGHES: So that answers —

Mr Woronzow: Well, in the maintenance space, I think the member and I have—the member has a good point and that is something we are looking at, but I suppose what I am saying is we are tempering that—and we are aware it has happened in one or two other jurisdictions. We are tempering it with the advice we have got from industry saying "Don't impinge on our supply chain" and what we are planning to do is at our next industry advisory group have the discussion —

Hon JIM CHOWN: If I may interrupt, and correct me if I am incorrect, that supply chain would be the same for all contractors.

The CHAIR: How do you work that out?

Mr M. HUGHES: Presumably.

Mr Woronzow: No.

Hon JIM CHOWN: No? Well, if I have a maintenance contract and I need bitumen or whatever, because it is a very specified, narrow industry, would not the same suppliers be supplying A and B?

Mr Woronzow: A and B in —

Hon JIM CHOWN: Contractor A and contractor B who are actually going for the same maintenance contract, for example?

Mr Woronzow: In WA, in terms of bitumen, there are probably only three or four suppliers, so they will be going to A and B but what I am saying is —

Hon JIM CHOWN: I am sure there are other aspects as well. What else do we need here? Dieseline, for example, I mean, how many—et cetera. I mean, there is a very narrow spectrum of suppliers. Yes?

Mr Woronzow: Yes.

The CHAIR: Was that rhetorical or not? Have we finished that line?

Hon JIM CHOWN: We have finished.

The CHAIR: Just a couple of questions about external—how are your internal checks and balances monitored externally, or are they?

Mr Woronzow: They are. Obviously, we have our own internal audit process and in terms of procurement, both EY and KPMG do the procurement audits. There are obviously state audits. The state Auditor General does procurement audits. We have a third party—certified procurement and supply management system. There are checks done within that procurement management system that give us confidence that our processes are being followed and —

Hon ALISON XAMON: What, if any, areas are routinely identified as being of poorer compliance or could be better? Do you have any sort of systemic areas that could be identified?

Mr D'Souza: Policy documentation is always an interesting one. Currency of information is probably one that can come up from time to time.

Hon ALISON XAMON: What do you mean by “currency of information”?

Mr D'Souza: It might be something where perhaps titles or terminology may have changed or there may be perhaps—I will use the example, Department of Finance's office of government procurement may have issued a new open and effective competition-based policy and that needs to be applied into our system. So, that is more so the more common type of finding that has occurred—nothing else systemic.

The CHAIR: This might be being a bit naive, but in relation to the country contracts, there are probably fewer suppliers, maybe, contractors, or everyone knows one another and who is in the game. Are there any additional risk management practices that are involved in, say, regional contracting?

Mr Woronzow: No. We make no differentiation. I can give the committee some little assurance that there are no issues there, as the same process that we have talked about—the data analytics, pre-qualification. The Department of Finance have some—many of the things that are required in the regions. So, they put in place common use arrangements and we use those.

The CHAIR: In terms of data analytics, has that found instances of improper or corrupt practices? Yes, according to Mr D'Souza.

Mr D'Souza: One of the examples —

The CHAIR: If you could maybe give us a case study, that would be great.

Mr D'Souza: I can. I guess one of them related to an employee who perhaps was misusing a corporate credit card and travel, and that identified there were perhaps multiple instances that occurred. From there, disciplinary action was taken through the misconduct processes and the actual person, effectively, was moved out of that role, credit cards removed and moved to a different role. That was identified through some of these analytics.

Hon ALISON XAMON: So can I ask, with that, did the Public Sector Commissioner taking a role with that at all? I am just interested in as these individual employees are identified, what the intersection then is with referral to the CCC or referral to the Public Sector Commissioner?

Mr Woronzow: In a case like that identified by Mr D'Souza, as soon as we are aware of it, we would notify the CCC and depending on the severity, at the same time, we would notify the Public Sector Commission.

Hon ALISON XAMON: Would it be a matter of course that the DG would be automatically notified of these instances?

Mr Woronzow: Yes. Of course.

Hon ALISON XAMON: Do you feel confident the DG would be aware of all instances occurring within the department?

Mr Woronzow: Everything except if something was very, very minor and we were unsure whether there was any substance to it but anything else—certainly anything that goes to the CCC or the Public Sector Commissioner, the Commissioner of Main Roads would be aware of it.

Hon ALISON XAMON: Ultimately, who is responsible for ensuring the referral to the Public Sector Commissioner or the CCC where an issue is identified?

Mr Woronzow: At the moment, it is just me—managing director.

Hon ALISON XAMON: So it actually sits with you specifically?

Mr Woronzow: Yes.

Hon ALISON XAMON: Thank you.

The CHAIR: The Main Roads people are not strictly public servants. They are—what are they called?

Hon JIM CHOWN: Government employees.

The CHAIR: Government employees. Does that make any material differences in this area?

Mr Woronzow: No. We apply the same policies and guidelines required of all government employees.

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The only exception is we have got our own enterprise bargaining agreement. In that agreement there is a process that is set out around disciplinary matters and we need to follow that.

[2.40 pm]

The CHAIR: For the purposes of the Public Sector Commissioner being involved or the CCC, they are both within the —

Mr Woronzow: They are both the same.

The CHAIR: They are both covered.

Hon ALISON XAMON: And do the EBA provisions largely mirror the process that you would follow with the Public Sector Commission?

Mr Woronzow: Generally. I think at exception, there may be in the EBA you have to—the employee is given the right to talk to a number of people. Sorry, I just have not got the detail, but at the lower level there is a slight difference. As things progress, they are the same.

Hon JIM CHOWN: Main Roads and PTA at times would have to work very closely together, certainly on major projects—correct or not?

Mr Woronzow: Correct.

Hon JIM CHOWN: Is there a difference in PTA procurement processes as opposed to Main Roads that you are aware of?

Mr Woronzow: In terms of capital works, the difference would be the pre-qualification list. Obviously, they are predominantly rail. We are road, but in terms of the processes —

Hon JIM CHOWN: PTA is also the bus system as well, is it not?

Mr Woronzow: Correct.

Hon JIM CHOWN: They run on what? Do they run on roads—yes? There is a synergy here.

Mr Woronzow: There is, but there is not a total synergy. Contractors that build rail and railcars are different. We will never deal with those contracts.

Hon JIM CHOWN: No, I understand that. But I am talking about the procurement processes between PTA and MRD.

Ms Lyhne: There was the process that I mentioned earlier around the different requirements of the legislation for approvals.

Hon JIM CHOWN: Sure.

Mr Woronzow: We both follow state supply guidelines that have been promulgated by the Department of Finance. That is the core of both of our procurement processes.

Hon JIM CHOWN: But you have gone a few steps further than that internally to ensure that your processes are as watertight as possible?

Mr Woronzow: Correct, and as fit for purpose for the industry that we operate in, yes.

Hon JIM CHOWN: There is no similarity between your procurement internal processes and the Public Transport Authority's?

Mr Woronzow: I am saying there is a very —

Hon JIM CHOWN: Or are they very similar?

Mr Woronzow: No; they are very similar, because we follow the same Department of Finance state supply policies.

Hon JIM CHOWN: Other than the further steps you have taken internally?

Mr Woronzow: Correct.

Hon ALISON XAMON: In your submission, you state that a procurement conflict of interest register exists, and I quote. It says —

... for officers involved in the procurement process to declare any actual or perceived conflicts of interest ...

Whose responsibility is it to declare their interest and to log it onto the register? Is it everybody?

Mr D'Souza: Yes.

Hon ALISON XAMON: It is everyone?

Mr D'Souza: Yes, it is those who are involved in a tender process. Up-front, it is the declaration that there is not this level of conflict, or if there is a perceived, to actually record and register that. There is the follow-up process through our centralised procurement team who make sure that those registers are completed and should be completed or if there is —

Hon ALISON XAMON: That was part of my next question: who is scrutinising that register to ensure that it is thorough?

Mr D'Souza: Our supply procurement officers conduct that particular review and scrutiny.

Hon ALISON XAMON: What are the usual conflicts which are identified?

Mr D'Souza: The usual. There may be a situation where there may be a superannuation shareholding, potentially.

Hon ALISON XAMON: It is usually fairly remote?

Mr D'Souza: Fairly remote; correct.

Hon ALISON XAMON: Have you encountered instances where people who should be registering conflicts of interest have not registered that? Has that been uncovered at all?

Mr D'Souza: I am not aware of any.

Mr Woronzow: I am not aware of any.

The CHAIR: Again, what is the rule in terms of gifts, for example—you know, going to the Clough engineering box at the footy or whatever? Is that permitted; and, if so, what disclosure has to be made of that?

Mr Woronzow: That particular example would go into our gifts register. We have got guidelines around gifts and hospitality and anything that is not specifically work related. Where I say “work related”, it is attending industry body functions. We discourage that type of behaviour.

Hon ALISON XAMON: You discourage it, but if people are engaging in it, are they counselled against doing it? Going back to I suppose the earlier hearing, we were talking about culture and how you actually encourage a change of culture, which is complex. How would that be managed?

Mr Woronzow: If people are attending those types of events, they go on a gift register. The gift register is perused on a regular basis by our manager of legal and commercial services. If he thought that there was something inappropriate there, he would talk to the individual. We have ongoing training around gifts and hospitality sponsorship, where each part of Main Roads gets training at least once a year on a rotational basis.

Hon ALISON XAMON: Can I just ask: is it your evidence to this committee, then, that gifts and those sorts of arrangements are generally discouraged within your department?

Mr Woronzow: Sorry, I missed that last bit.

Hon ALISON XAMON: I am wondering if you are telling this committee that it is discouraged to receive gifts, if that is part of the culture?

Mr Woronzow: Definitely. The only time when people in Main Roads understand it may be appropriate to take a gift is if they have gone to a peak industry body or they are a guest speaker and they are given a small token of their appreciation, and that is okay.

Hon ALISON XAMON: A bottle of wine—not Grange.

Mr Woronzow: Anything else is not.

The CHAIR: Is there a monetary value before you have got to enter something on the register?

Mr Woronzow: Previously—Phil?

Mr D'Souza: It is zero. We expect to declare anything zero and above, effectively.

The CHAIR: It is always a bit of trouble when you go overseas and you get something and not offending your host by saying it is worth less than it is.

Mr Woronzow: That is exactly right. From time to time we have delegations from overseas, trying to understand what we are doing and it is inappropriate to say you will not accept a token of their appreciation for hosting them.

The CHAIR: Some of the advocates of open government and transparency talk about just having all tender material open and accessible. Against that, you have the argument of commercial confidentiality. Is there some way around that that would suit Main Roads, like being more open but not completely so it does not cause any commercial ructions?

Mr Woronzow: I think Main Roads is very open. All our procurements go up on Tenders WA. The results of those procurements go up on Tenders WA. The only time where we have disclosed anything about a procurement process has been when it is generally commercial-in-confidence and it might compromise the process.

The CHAIR: That is what I want to ask: can that be narrowed a bit? Is there any possibility for that to be narrowed?

Mr Woronzow: I genuinely think Main Roads has narrowed it as far as we can.

The CHAIR: From Finance, we got some lists about where exemptions from tendering were sought. There are three for Transport and I understand you probably do not know these off hand, for a reason. But they seem to be beyond term and value, whatever that means. There is intelligent print imaging services for driver and vehicle functions.

Ms Lyhne: That is a Department of Transport one, yes.

Hon ALISON XAMON: So you do know.

Ms Lyhne: I know of it, yes.

The CHAIR: Then there was supply of Country Age Pension Fuel Card and associated services—that was beyond term—and a supply delivery installation commissioning and support of maintenance of an enterprise document and records management system, and deployment services. That says it is beyond term and value. What exactly does that mean?

Ms Lyhne: I would be happy to take it on notice to get you more detail, but let me give you —

Generally those are often very large contracts. Mr Shepherd explained earlier where any variation is done is added to the total of the contract and that takes it over. Where those contracts have had to be extended because of something either in the marketplace or the particular circumstances mean that we have been unable to put a new contract in place in time, sometimes the contracts need a short extension, which then puts them above that amount. I know things like the intelligent printing and the fuel cards are very large contracts that would probably fall into that category. If you want more detail, I am prepared to take that on notice. Generally, that would be why it would be beyond.

The CHAIR: That is what I thought it meant; that is good.

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

Hearing concluded at 2.50 pm
