

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO THE TRANSPORT OF PERSONS IN CUSTODY IN WESTERN AUSTRALIA

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 17 JUNE 2015**

SESSION ONE

Members

Hon Liz Behjat (Chairman)
Hon Darren West (Deputy Chairman)
Hon Nigel Hallett
Hon Jacqui Boydell
Hon Amber-Jade Sanderson

Hearing commenced at 9.30 am

Mr ALISTAIR JONES

Acting Executive Director, Strategic Policy and Evaluation, Department of Treasury, sworn and examined:

Mr MICHAEL ANDREWS

Acting Director, Performance and Evaluation, Department of Treasury, sworn and examined:

The CHAIRMAN: Gentlemen, let me just first, if I can, introduce the committee to you. My name is Liz Behjat; I am the Chair of the committee; I represent the North Metropolitan Region. Hon Amber-Jade Sanderson represents the East Metropolitan Region. Hon Darren West, our Deputy Chair, represents the Agricultural Region. Our advisory officer is Dr Julia Lawrinson. My colleague Hon Nigel Hallett represents the South West Region. Hon Jacqui Boydell represents Mining and Pastoral. That is all of us, representing five out of the six regions, so you have a very good cross-section of the Western Australian Parliament here. On behalf of the committee, I welcome you to the meeting, but first of all, we need to ask you to take either an oath or affirmation, whichever you prefer.

[Witnesses took the affirmation.]

The CHAIRMAN: You will have signed the document entitled “Information for Witnesses”. Have you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: The proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. That is the formalities out of the way.

With other witnesses who appear before us, we have given them the opportunity to make an opening statement. I do not know if you have anything.

Mr Jones: I might just explain what we do at Treasury to give you some context. We do not have an opening statement per se.

The CHAIRMAN: That is fine. Also in context for you, I appreciate that only yesterday the Minister for Corrective Services made an announcement in the house, which changed probably the scope of a number of the things that we are looking into, so some of our questions might be a little bit different than what we had planned had this hearing taken place on Monday.

Mr Jones: Thank you, Chair. I am the executive director in charge of the business unit, which is called strategic policy and evaluation, at Treasury. My business unit is responsible for about 70 per cent of the state budget with agencies such as health, education, all the law and order

agencies, social services—pretty much most of the major agencies. Mr Andrews is the director of performance and evaluation group 2, and that is the directorate that has direct responsibility for the budgets for Western Australia Police, amongst others, the Department of Corrective Services and the Department of the Attorney General, so all these three agencies that are involved in the CS&CS contract. Obviously, there are other agencies as well but they are the ones—hence I have asked Michael to come along to provide some technical advice if I am not able to answer your questions.

The CHAIRMAN: Okay. That really leads to our first question then. If you could just give us some detail as to Treasury's role in relation to the review of the CS&CS contract and Treasury's ongoing involvement in, or oversight of, contract management?

Mr Jones: In terms of this particular contract, if you go through the history of it, I think 2008 was the first time they went to market and Treasury officials were involved in the construction of a public sector comparator for that procurement exercise. Again, officers from Treasury in 2010 were involved in the second going to market in which Serco ended up getting the contract. In terms of the current contract, our involvement usually is limited to requests from the department for funding increases. For example, with this contract in the 2013–14 midyear review, there were some variations to the contract—some changes to the volume bands—and there were also some changes to the scope of the contract. The department obviously put that up through the cabinet process, through the EERC in cabinet, for funding for that. In terms of the actual everyday running of the contract and evaluation of the contract, Treasury does not play a role in scrutinising existing government contracts. In terms of this contract, given the minister's announcement yesterday, I suspect that we will be involved in assisting with the public sector comparator and the evaluation of this when the government goes to market again.

The CHAIRMAN: The public sector comparator is something that would be of interest to our committee. Is that available? It may not be available publicly, I understand, but is it available for the committee to see in a confidential manner?

Mr Jones: I would have to seek advice on this to say whether we could release that to you.

The CHAIRMAN: Could you take that as a question on notice?

Mr Jones: Certainly.

The CHAIRMAN: Hansard, that would be A1. We will write to you and tell you what these questions are so you do not have to take note of that.

Mr Jones: Chair, specifically there have been two, so which one were you interested in? Were you interested in both?

The CHAIRMAN: Both. It would be a great benefit to what we are going to be doing within the terms of this inquiry. Would you do another one?

Mr Jones: Yes.

The CHAIRMAN: Obviously, you do not know that exactly yet, but I would assume that that is what is going to happen. So any information you can provide to us with regard to the comparator would be useful to our inquiry.

Mr Jones: In terms of our role in that, I will point you to the state government's PPP policy. That is available on the internet, but we can provide it, if you want. That requires government agencies and government to actually construct a public sector comparator. Obviously the public sector comparator is used to assess whether essentially we do it in-house or, if something is in-house, whether it remains in-house or whether it is contracted out, and that looks at value for money and also performance issues that are obviously related to the individual contract type.

The CHAIRMAN: This next question—again it is all in the minister's statement yesterday—we note, and we heard evidence on Monday from other witnesses as well, that there has been

a directors general governance group formed, and we know that that group has yet to meet formally. They may have had some initial discussions. The senior officers have certainly met but not the DGs themselves.

Mr Jones: Can I just correct you, Chair? There was actually a meeting on 5 May, which was basically to discuss the terms of reference for the group and also some issues. That was the week before the budget. I attended on behalf of Treasury—on behalf of Michael Barnes—and the director general of Corrective Services, the director general of DOTAG, and the executive director, Anthony Kannis, from Police. We were the people who were present at that meeting.

The CHAIRMAN: Were there minutes taken at that meeting?

Mr Jones: I think so, yes, but I have not received minutes. However, we have received subsequent correspondence to the Under Treasurer from the commissioner, essentially seeking advice on some of the issues that were raised at that meeting. I suspect, given we received that, other people would have received that. He would have sent a letter to other people.

The CHAIRMAN: Who chaired that meeting?

Mr Jones: The director general of the Department of Corrective Services.

The CHAIRMAN: He is coming back in, so we will ask for a copy of the minutes of the meeting of 5 May.

Mr Jones: In terms of the officers' group that has not met. Actually, while we were in the waiting room, we were informed that this meeting—what date is it?

Mr Andrews: It is 30 June.

[9.40 am]

The CHAIRMAN: It will be a very busy day on 30 June. There are some questions to raise there. Also in the minister's statement yesterday, one of his paragraphs reads —

In order to make an informed decision on the future of the contract, I have asked the Commissioner of Corrective Services to work with the director general of the Department of the Attorney General and the Commissioner of Police on a review of the current contract.

I assume Treasury would be involved in that but at this point it has not gone into that.

Mr Jones: No.

The CHAIRMAN: In that I am assuming that he is actually referring to that directors general governance group. That is what I am reading into this.

Mr Jones: I would say so. So, the meeting we had was essentially to work out the terms of reference for the departments' roles and responsibilities.

The CHAIRMAN: And they were set at that meeting?

Mr Jones: A draft was put through. I suspect the correspondence—I have not read it—would probably set that out. Again, that may require ministerial endorsement before it becomes formal.

Hon DARREN WEST: Where was that meeting?

Mr Jones: At the Department of Corrective Services—the commissioner's boardroom.

The CHAIRMAN: The Inspector of Custodial Services, in his submission to this inquiry, notes that there needs to be adequate resourcing of contract management, as well as experience and expertise in contract managers themselves. He also suggested that there has been some unevenness in relation to this in the Department of Corrective Services over the years and that this represents risk. Has Treasury formed a view about the way DCS's contract management is undertaken and how adequately it has been resourced?

Mr Jones: We have not, but I could give you a general comment that contract management across the public sector is something we could do a lot better at. Some contracts are managed particularly well, others not so well. In terms of the specific contract that you are talking about, I have no opinion on whether it has or not; I have not been asked to look at that.

The CHAIRMAN: This is quite a general question. There are no guidelines in relation to contract management, so the way contract management differs from department to department makes it really difficult for people—the public, for instance—to see how contract management is actually —

Mr Jones: Procurement and contract management is actually in the ambit of the Department of Finance. They may have policies in terms of guidelines for agencies to use in terms of doing that. But again, it is not an area of my expertise, so I cannot further comment on it.

The CHAIRMAN: The Victorian Auditor General in its report into prison transport suggested that performance-linked payments made to the contract do not promote ongoing efficiency and effectiveness. What is Treasury's view on this from a best-practice model of contract management?

Mr Jones: Again, it depends on the type of the contract. The issue with the contract you have at the moment is the key factor is risk and how you manage that risk. There could be different mechanisms to do it—financial payments, changes to contract conditions, where they have to do more staff. In terms of best practice in Corrections, I am not an expert in that so I am probably not able to comment.

The CHAIRMAN: We have noticed that there is very little publicly available information on the financial performance of Serco. How can the public assess whether the contract provides value for money? Is Treasury aware of models or examples of reporting where private companies delivering public services are obliged to provide high levels of finance and other disclosures?

Mr Jones: Again, Serco is a private company. The market rules of what they have to disclose is different from a public company. It would be a fair statement to say there is less scrutiny and they are not having to report to a stock exchange about certain performances. In terms of how they report better for the state, obviously when you go into negotiations or go into tender, they have to provide you with certain assurances about their ability to actually, one, be financially viable going forward and, two, whether they have got the expertise to actually do the contract. So in terms of ongoing scrutiny of that, probably it is very limited due to the nature of it being a private company. Again, without getting into too much detail, because I am not across the actual contract that exists between the state and Serco—I am not the lawyer who draws that up. It is up to the state when they negotiate a contract about what reporting arrangements they are comfortable with and then what happens with those reporting arrangements—whether they are just to the department or whether they are publicly made. That is a call for government to make.

The CHAIRMAN: So if the government seeks assurances in relation to financial matters with a private company that is contracting their services, do they just rely on those assurances that have been provided or is there some sort of process that the government then goes through to test those assurances?

Mr Jones: You do due diligence. It is the same as going into a contract with anybody. For example, if you are building a house, your test of due diligence is probably not on the same scale but you are not going to go with the cowboy builder who is going to collapse in 12 months. As a purchaser, you do that before you actually go into the contractual arrangement. There is nothing stopping the state, when it puts it out to market, to actually require the people who are bidding for a contract to actually provide a guarantee—that is, we look at their financial performance, their books and that sort of thing. That is common practice in some cases—or in most cases we do that.

The CHAIRMAN: It is in most cases that you would seek that?

Mr Jones: You would. You do due diligence. For example, you would not enter into contact of this size without being assured and being shown evidence that the company that is bidding for the contract is financially sound and able to operate and deliver under the terms of the contract.

Mr Andrews: Which is why in these sorts of situations the procurement process is fairly expansive, so there is usually an EOI followed by an RFP which goes through those key elements, and they usually are criteria in terms of determining the selection of a service provider.

The CHAIRMAN: Is there a Treasury official at the table with those contract negotiations?

Mr Jones: There would be a Treasury official at the table for the evaluation of bids for a contract of this nature and there has been in the last two, from my understanding. In terms of the actual contractual arrangements, the drawing up of the contract, in some cases we are consulted by the agency and SSO and in others it depends on the complexity of the contract whether we are or not. I mean, there are straightforward contracts. In PPP terms, the state has done it now on a number of occasions, so the SSO does have a suite of documentation to actually enact the contract. But in terms of the evaluation, we would certainly be involved in that at the evaluation stage and also when it goes to government for decision. For example, if I look back at 2010, obviously Corrective Services will have gone through a process. We would have been involved and we were involved in that process of evaluating the bids. Then, once those bids have been evaluated, because of the financial impact, the department has to go to government to get a policy decision, A, to go with its provider, and B, as to demonstrating that proposal by basically laying out the evaluation process and what the bids were and why the proponent was picked, to get a government decision to do it. Obviously Treasury has a role in that through the EERC and also the cabinet comment process. So we have been involved on a number of levels.

The CHAIRMAN: Beyond the evaluation at the table, given the complexity and the potential cost implications, would Treasury expect to be at the table?

Mr Jones: What, in terms of —

The CHAIRMAN: The actual negotiations.

Mr Jones: In terms of this specific contract we have been in the past, so I would not see why we would not be going forward.

The CHAIRMAN: We go on to some questions regarding the scope of the contract and service demand, which I suppose is a little redundant in some respects because the contract is obviously going to be different, but it will help us, I think, form some ideas as to what it might look like in the future. It has been suggested that coverage for unpredictable ad hoc transports had been problematic, especially in regional areas and in relation to hospital sit coverage, which is impacted by the baseline volume banding system. It has been suggested that the contract requires more flexibility, and to revise the volume banding system and cost for additional escorts. Is the current contract sufficiently flexible? Is there a trade-off between flexibility and transparency?

Mr Jones: In terms of the current contract, without having actually read it, I could not comment on it in terms of its flexibility, but in terms of constructing a new contract, if the government goes to market, certainly you would be looking at lessons you have learnt from the two previous contracts that we have had. You would look at where it has worked and where it has not worked, and you would certainly be designing a contract that does cover unforeseen circumstances. That is commonsense in terms of that type of operations.

The CHAIRMAN: I am not sure whether Treasury has a public position that you want to put on the record or not about the desirability of a single service provider as opposed to a number of contractors for different aspects of prisoner transport, such as transporting juvenile prisoners or regional transport, given that there are differences in all of those areas?

[9.50 am]

Mr Jones: That is a policy decision for government. You really should evaluate what all the options are, what the costs are and what the service pros and cons and risks are; and the government will make a decision based on that. We do not have a public preference for any type of arrangement.

The CHAIRMAN: We are aware of the scope of services under the current contract and what they are, and we note that there have been increases in demands for some of those services, such as the regional lock-up clearances and metropolitan hospital sits, which were not actually originally anticipated. What is the most cost-effective way, going forward, of dealing with this? Would you do that through a contract variation or would you provide additional funding for these services?

Mr Jones: The midyear review decision was to deal with some scope changes and obviously volume changes, and they did include the changes in policy and terms of clearances of lock houses. We had the Perth police complex come on board, where you basically moved it from one night a week down at East Perth to a new arrangement. There were some regional courts that were involved as well. In terms of whether it has delivered value for money, when we look to the next stage of looking at a new contract, we will obviously assess the performance of how it worked under the previous contract and come to a judgement then. I could not tell you now whether it has or not.

The CHAIRMAN: Given that the contract expires on 30 June 2016 and we now know that it is going out to tender, what is the normal process or what is the timeline for something like that happening? I do not want to put you on the spot because it only happened yesterday, but what would you envisage?

Mr Jones: I think we will probably need to be talking about starting work on getting a project timeline to actually meet the deadline of the expiry of the contract, pretty much immediately. In terms of what component parts and the timings of those, I could not comment until this has been done on what the various parts were. A year is not unreasonable for a contract of this size to do the required amount of due diligence and analysis to inform government.

The CHAIRMAN: Presumably if there was to be a change in the service provider, then they would need more than just to be told on 29 June they were starting on 30 June?

Mr Andrews: There will be a transitional arrangement, yes.

The CHAIRMAN: What would be a normal time frame for a transitional arrangement?

Mr Jones: It depends on the type of contract. Sometimes it is a couple of months. It depends on the operation.

The CHAIRMAN: I do not want to keep putting you on the spot —

Mr Jones: I am not an expert on Corrections.

The CHAIRMAN: — because the landscape has changed in 24 hours on this one.

Mr Jones: Yes. Even so, we are not experts on Corrections. You would have to seek advice from the department on what is an appropriate time period for a transitional arrangement that minimises risk. That is an answer they can better be able to give you then we can.

The CHAIRMAN: The number crunchers just stay in their backroom crunching those numbers.

Mr Jones: Not at all; we spend a lot of time engaging with agencies. But again, if I was an expert in every area that my position covers, I would be a very qualified person.

The CHAIRMAN: There would be more than one of you.

Mr Jones: Correct.

The CHAIRMAN: Members, are there any other questions that you have?

Hon DARREN WEST: I am just a little bit curious about how you go about it. I just want a bit of a run-through on how the public sector comparator works, because clearly there are strong views on

whether a contract should be retained with the department or left to the private operator. So I just wonder if you might be able to walk us through how that process works when you are doing a public sector comparator and exactly what is taken into account when you are going through that process.

Mr Jones: Probably the easiest way is explaining what we would look at, basically, if the Department of Corrective Services were to actually offer this service. Basically, what you do then is you would construct that saying how many staff, what vehicles you need and all those sorts of arrangements. Basically what we do then is put a value on it, which we can do because we obviously know how much public servants and prison officers cost us, and administration, and in terms of the vehicles, we know how much they cost to either lease or to purchase. You obviously then put contingencies in there for unforeseen circumstances, as you were discussing earlier. What we do is basically design a scenario where the public sector would deliver it. That is your base and then, essentially, in terms of the PPP policy, if they go to market, anybody who bids for it—and there will be criteria; it will not be just financial. There will be ones in terms of performance, risks to the community and all that sort of stuff. That will be constructed and then essentially they have to bid against that as a benchmark. Obviously there will be an evaluation. We will look at that and then say, “Is it more expensive? If it is more expensive, has it got lower risk?” and all those sorts of factors. So it is not just that the cheapest price gets it; it is actually a multifaceted and very complex process.

Hon DARREN WEST: So you would take into account things like if a Department of Corrective Services officer was doing the transfers in a regional area that that person could then be used in the prison for half a day when they are not transferring?

Mr Jones: Yes.

Hon DARREN WEST: All of that comes into the consideration?

Mr Jones: Yes, absolutely. You would not be paying someone to sit around all day if they can do another role, so that would obviously be part of that construction. What that is I cannot tell you because I am not an expert in Corrections, but that is the common practice in terms of putting these together.

Hon DARREN WEST: Is there a value put on or do you take into consideration, for instance, this year Serco had no escapes but last year there were 10 escapes? Do you factor that in?

Mr Jones: Absolutely. The way that you design the service in this particular contract, you would design it so that you do not have any escapes. I think that is what the current benchmark is—100 per cent, from memory. That is your starting point. Regardless of who runs the service, sometimes human error can kick in, whether it is a prison officer doing it or a private contractor. But when you do the service design, yes, you would look at what they are offering and whether that does meet standards of best practice or even world’s best practice in terms of delivering that service with all those things included.

Hon DARREN WEST: Thanks.

The CHAIRMAN: Thank you, gentlemen. It has been very helpful for us this morning. We were flying a little bit blind there in some respects with the change in the scope of everything, but it has been interesting. The questions that we have asked on notice, you will be sent a letter about that and what it is we are seeking. Any information we can get would be gratefully received. Thank you very much.

Mr Jones: Thank you, Chair. Thank you, members.

Hearing concluded at 9.56 am
