

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.4

Question No. 96

Senator Ludwig asked the following question on 2 December 2004:

When will the Departmental revision of the Protective Security Manual be complete?

The answer to the honourable senator's question is as follows:

The revision is being coordinated by the Protective Security Policy Committee (PSPC) an interdepartmental committee made up of agencies with a particular interest in protective security including the Department of Prime Minister and Cabinet, the Australian Security Intelligence Organisation, the Defence Signals Directorate, the Department of Defence, the Australian Federal Police, the Australian Customs Service, the Department of Foreign Affairs and Trade and the Department of Finance and Administration, and chaired by the Attorney-General's Department.

It is anticipated that the revised PSM will be submitted to the Government in the first half of 2005.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 97

Senator Ludwig asked the following question on 2 December 2004:

Regarding the surveys of the status of security across government, which issues relating to security governance did the surveys raise?

The answer to the honourable senator's question is as follows:

The Protective Security Policy Committee developed the Australian Government Protective Security Survey so it could report to the Government on protective security within Australian Government agencies. The survey, which is conducted on a calendar year basis, covers a broad range of issues including managing security risk, information security, information technology and telecommunications security, personnel security, physical security, competitive tendering and contracting security and security incidents and investigations. The results of the survey are classified as a matter of national security and are not disclosed except to the Government.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.4

Question No. 98

Senator Ludwig asked the following question on 2 December 2004:

Further, the surveys indicated that agencies are continuing to improve their security management. In what ways are they doing this?

The answer to the honourable Senator's question is as follows:

Continuous improvement in security management by agencies is being undertaken in a variety of ways, including

- developing and implementing security plans;
- improving their personnel security practices and procedures; and
- meeting appropriate requirements for storing and processing security classified information.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 99

Senator Ludwig asked the following question on 2 December 2004:

I refer you to allegations made that the ACC promised to indemnify a key witness in the recent Melbourne gangland court case, as reported in *The Age* on 17/11/2004 in an article entitled “Gangland witness: I won’t testify”.

- a) Does this article accord with the facts?
- b) If not, in which respect(s) is it incorrect?

The answer to the honourable senator’s question is as follows:

The question on notice relates to a sensitive operational matter and it would not be appropriate to reveal specific details of witness protection arrangements.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 100

Senator Ludwig asked the following question on 2 December 2004:

- a) How many ACC investigations were assisted by the use of witnesses in 2004?
- b) Of these, how many such witnesses requested from the ACC, either in accordance with any relevant procedures or otherwise, to be given indemnity?
- c) Of these, how many such requests were denied?

The answer to the honourable senator's question is as follows:

The question on notice relates to a sensitive operational matter and it would not be appropriate to reveal specific details of witness protection arrangements.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 101

Senator Ludwig asked the following question on 2 December 2004:

- a) How many such witnesses were offered indemnity by the ACC, either formally or informally by either the ACC or one or more of its officers or agents?
- b) Of these, how many persons accepted any such offer?
- c) Of these, how many persons were subsequently granted indemnity?

The answer to the honourable senator's question is as follows:

The question on notice relates to a sensitive operational matter and it would not be appropriate to reveal specific details of witness protection arrangements.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 102

Senator Ludwig asked the following question on 2 December 2004:

- a) How many such witnesses requested from the ACC, either in accordance with any relevant procedures or otherwise, to be transported overseas or interstate in return for their cooperation with the ACC?
- b) Of these, how many such requests were denied?

The answer to the honourable senator's question is as follows:

The question on notice relates to a sensitive operational matter and that it would not be appropriate to reveal specific details of witness protection arrangements.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 103

Senator Ludwig asked the following question on 2 December 2004:

- a) How many such witnesses were offered by the ACC to be transported overseas or interstate, either formally or informally by either the ACC or one or more of its officers or agents?
- b) Of these, how many persons accepted any such offer?
- c) Of these, how many persons were subsequently so transported?

The answer to the honourable senator's question is as follows:

The question on notice relates to a sensitive operational matter and it would not be appropriate to reveal specific details of witness protection arrangements.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 104

Senator Ludwig asked the following question on 2 December 2004:

- a) Does the ACC have a policy to ensure that potential witnesses are encouraged to assist the ACC?
- b) If so, was that policy applied in respect of this particular incident?
- c) If so, has the ACC subsequently sought to revise or otherwise alter any such policy?
- d) If not, why?
- e) If there is no such policy, has the ACC taken any steps to develop and introduce such a policy?

The answer to the honourable senator's question is as follows:

a) and e) Effective witness protection arrangements are vital to the operation of the ACC. Where there is a genuine threat to a witness and approval is given in accordance with current policy and established procedures, the ACC will place a witness into an available program to ensure that appropriate protection is provided to the life and safety of the person/s concerned and that in the interests of justice, evidence is preserved.

The witness protection arrangements most used by the ACC are those provided by the Australian Federal Police National Witness Protection Program. Depending on the individual circumstances of each case, the individual witness' circumstances, and multi-agency task force arrangements, consideration may also be given to the placement of a witness (and his or her families) into a State based program. Relevant Commonwealth and State legislation covering these arrangements include the *Witness Protection Act 1994 (Cwth)*, *Witness Protection Act 1995 (NSW)* and the *Witness Protection Act 1991 (Vic)*.

b), c) and d) The question on notice relates to a sensitive operational matter and the ACC feels that it would not be appropriate to reveal specific details of witness protection arrangements in a public forum.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 105

Senator Ludwig asked the following question on 2 December 2004:

- a) How many ACC employees were investigated for corruption in 2004?
- b) Of these, in how many instances did any such investigation lead to disciplinary or legal action being taken against that employee?

The answer to the honourable senator's question is as follows:

- a) 5 ACC Employees and 2 Seconded Police Officers.
- b) 4.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CRIME COMMISSION

Question No. 106

Senator Ludwig asked the following question on 2 December 2004:

- a) Does the ACC have in place any policy to discover and monitor corrupt behaviour by any of its employees?
- b) If so, has the ACC recently reviewed or altered any such policy?
- c) If so, what were the outcomes of any such review or alteration?

The answer to the honourable senator's question is as follows:

a) Yes.

- Extensive operational policies and procedures - Effective policies and procedures and strict policing of adherence to these policies and procedures reduces the opportunity for corrupt behaviour and supports effective detection of corruption if it occurs.
- Security vetting - All new staff undergo a rigorous security clearance in accordance with the Commonwealth Protective Security Manual. Security clearances for new and existing staff are re-validated every five years. Police secondees undergo a security check and must receive a clearance from their home force ethical standards/internal investigation branch and their head of agency.
- Whistleblowers policy - The ACC Whistleblowers policy has been updated and publicised with staff.
- Professional Standards and Integrity Management Plan - The ACC's comprehensive Professional Standards and Integrity Management Plan (PS&IMP) is a consolidated reference of the ACC's operational systems, corruption prevention strategies and ethical standards. The principal objectives of the ACC's PS&IMP are to provide leadership, supervision and development that instil professionalism and integrity throughout the agency, to ensure effective corruption prevention strategies operate within the agency, to enable early detection of unethical and or unprofessional behaviour and to provide comprehensive review and monitoring of all aspects of ACC business to identify risks, address non-compliance and capitalise on opportunities for business improvement. The plan is endorsed by the ACC Board and monitored by the ACC Audit Committee.
- Review of ACC actions by Commonwealth Ombudsman - The Commonwealth Ombudsman has the power to investigate complaints against the ACC or its staff and to monitor and report on the ACC's compliance with telecommunications interception and controlled operations legislation. The Commonwealth Ombudsman also has the power to investigate complaints against the ACC or its staff and to instigate an own-motion investigation if he sees fit. State Ombudsman also are able to inspect certain ACC records where the ACC has used State legislation.
- Secondees are subject to home force disciplinary and ethical standards regimes - Police officers remain responsible to their home force to act in an ethical and lawful manner. Any transgression remains on their record with their home force and is not left with the ACC when their secondment is finished.

- Limited access rights to classified information - The need-to-know principle is used as the basis of determining who has access to classified and sensitive information. Classified and sensitive information is only shared with those staff that need the information for operational purposes.
- Regular and random compliance audits across operational and functional areas - Both internal and external audits of ACC systems are carried out on a regular basis. The ACC has an Internal Auditor and an Audit Committee. Audits are also undertaken by the Australian National Audit Office. Audits check compliance with legislative requirements and the ACC Policy and Procedures Manual for operational activity.
- Regular external audits conducted by the Commonwealth and State Ombudsman - Both Commonwealth and State Ombudsman have the power to inspect and investigate certain operational procedures and records.
- Drugs and Alcohol Policy - The drug and alcohol policy includes information on the responsibilities of both the ACC and its employees to drug and alcohol issues. It includes measures to prevent and minimise alcohol and drug related problems in the workplace, consultation strategies, preventative measures such as awareness programs, measures outlining the availability of treatment and rehabilitation for employees and rules governing conduct in the workplace relating to drugs and alcohol including disciplinary procedures up to and including dismissal

b) The ACC instigated an independent, external investigation of the operational and corporate implications of the allegations against two seconded Police officers. The investigation was undertaken by two senior investigators. Their report was titled *"A review of operational and corporate implications arising from the alleged activities of certain police secondees to the former National Crime Authority and Australian Crime Commission during the period 28 February 2000 to 18 February 2004: A report commissioned by the Australian Crime Commission"* (the Stoll-Valentin review). The Stoll-Valentin review was completed on 8 June 2004 and made 53 recommendations on the ACC's operational and corporate policies and procedures to improve the ACC's ability to prevent and detect corrupt behaviour.

The Commonwealth Ombudsman undertook an investigation of the ACC's independent review. The Commonwealth Ombudsman's report *Own motion investigation into a review of the operational and corporate implications for the Australian Crime Commission arising from alleged criminal activity by two former secondees*, was completed on 28 June 2004. The Ombudsman endorsed the review's recommendations and made three additional recommendations.

c) The ACC has accepted the three recommendations of the Commonwealth Ombudsman's report and the 53 recommendations from the independent investigation report and the recommendations are 98% implemented through a project which clearly articulates each task and timeframes for their completion. The ACC has reviewed and revised its policies and procedures in response to the corruption allegations.

The Ombudsman noted that the ACC is committed to remedying systemic problems identified by the independent review. The ACC Board has noted that the ACC has accepted and is implementing all recommendations. Updates on the status of the recommendations are, and will continue to be, provided to the Minister for Justice and Customs, Members of the Inter-Governmental Committee of the ACC (IGC-ACC), the Parliamentary Joint Committee of the ACC (PJC), the Commonwealth Ombudsman and the ACC Board.

The Commonwealth Ombudsman undertook a further review, during November 2004, of the ACC's implementation of the recommendations from the Stoll/Valentin review and the Ombudsman's own recommendations. The Ombudsman was satisfied that the ACC had developed policies and programs to promote the concepts of professionalism and integrity as its primary corruption risk management approach, and commended the ACC for its commitment not only to developing these documents, but to formulating a strategy to address the issues that had been identified. He formed the opinion that the actions taken by the ACC were appropriate and proportional responses to the Stoll/Valentin review and the Ombudsman's recommendations.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE - AUSTRALIAN CUSTOMS SERVICE

QUESTION # 107

Name of Consultant	a) specifically what specialist skills were not available in house	b) why the selection process specific to that consultancy was chosen	c) why each specific consultancy was or was not publicly advertised	d) the experience or skills base that led to each consultant being selected.
AUSTRALIAN GOVERNMENT SOLICITOR	Customs outsourced legal services in 1999 in response to Government policy to open up the Commonwealth Legal Market to private law firms.	Public tender for Legal Panel – Customs considered commercial legal firms could provide advice on "non-core" matters through legal panel arrangements.	Advertised as part of open tender process.	Based on evaluation of criteria outlined in Request for Tender (RFT), including: Compliance with RFT requirements; Qualifications and experience of key legal personnel; and Capacity to deliver nation wide legal services.
AUSTRALIAN RADIATION SERVICES	The consultant provides the following radiation protection services: radiation protection audits, risk assessments, radiation surveys of equipment and working environments, calibration of all types of ionising radiation monitoring equipment, wipe testing of sealed radiation sources, shielding calculations, personal radiation monitoring services both whole body and extremity monitoring, radiation source disposal, gamma ray spectroscopy, area monitoring, radiation safety courses, preparation of radiation monitoring plans, assessment and evaluation of x-ray machines and provision of independent advice and radiation monitoring equipment. These skills that were not available within Customs.	Extension of Contract. Specialist skills not available in house and the consultant has the skills, qualifications and experience to provide the services in an efficient and controlled manner. Also, they are the only licensed company in Australia able to calibrate and service Customs radiation pagers and monitors.	Not publicly advertised. Extension of existing contract. Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money	Customs has significant confidence in the company based on expert advice received from ARPANSA and work undertaken for other Commonwealth agencies.
ACUMEN ALLIANCE (First 4 Contracts from Annual Report listing)	The consultancy provided a high degree of technical accounting skills that were not available in house. These skills were particularly difficult to obtain at the end of the financial year.	Direct engagement - Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	Not publicly advertised - Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money. The engagement was expected to be of low cost and it was extremely unlikely that an equivalent skill base or experience level would have been available from alternate sources, particular during this busy period of the financial year.	The consultants had a demonstrated in-depth understanding of financial activities within a financial government context. The consultant also had experience with the Customs environment and had a broad knowledge and understanding of Customs financial systems and processes.

ACUMEN ALLIANCE	Specialist skills were sought in the area of IT Market Testing/Sourcing as the resultant IT Sourcing Implementation Plan would define the budget, resources and timing of the multi-million dollar IT Market Testing project. Customs needed to ensure the plan was realistic, comparative to other market testing projects and robust.	Direct engagement - Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	Not publicly advertised. See Previous answers	Acumen Alliance demonstrated very strong experience in market testing with other Government Agencies and provided a value for money response to the services required by Customs.
BARRY WEBB & ASSOCIATES	The services provided are electrical and data services including design and internal fit-out for the new Customs House at Sydney International Airport.	Selective Tender	The method of procurement proposal states the following reasons: Urgent need to engage a consultant; Market testing had recently been conducted on these services for other jobs by Jones Lang Lasalle; and Competition was maintained by going to a number of firms.	The services provided are electrical and data services including design and internal fit-out for the new Customs House at Sydney International Airport.
BLAKE DAWSON & WALDRON	Customs outsourced legal services in 1999 in response to Government policy to open up the Commonwealth Legal Market to private law firms.	Public tender for Legal Panel – Customs considered commercial legal firms could provide advice on “non-core” matters through legal panel arrangements.	Advertised as part of open tender process.	Based on evaluation of criteria outlined in Request for Tender (RFT), including: Compliance with RFT requirements; Qualifications and experience of key legal personnel; and capacity to deliver nation wide legal services.
BURNS BRIDGE SERVICES PTY LTD	The skill and capacity to review and analyse current and future business, organisation, infrastructure and accommodation needs of Customs Victoria. The skills to identify new accommodation options, to prepare a comparative analysis of options, and to prepare a report for decision-making.	Open EOI, followed by a Selective Tender. Reasons: There is a myriad of providers in the market place; The requirement was broadly understood with the potential for flexibility and innovation in approach; Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money - a public tender allowed for this; promote the opportunity for suppliers to offer innovative solutions.	The consultancy was publicly advertised because there were a large number of possible providers in the marketplace that could capably undertake the requirement and also to meet the Commonwealth's procurement principles of obtaining best value for money and open and effective competition.	Extensive experience providing the defined services, including strategic accommodation studies for Government and extremely well qualified and experienced personnel including specialist leasing advisor, Melbourne property advisor and cost planner.
CENTRE FOR ADULT EDUCATION	Professor Joe Lo Bianco, operating through the Centre for Adult Education, provided specialist skills in communication and linguistics that were not available in-house.	Direct Engagement. Professor Lo Bianco is a specialist in the area of linguistics and communication. He is currently Professor of Language and Literacy Education at the University of Melbourne. He has previously held the position of Chief Executive Officer of Language Australia at the National Languages and Literacy Institute, and an Adjunct Professor of Comparative Cultures and Languages at the University of Queensland. Professor Lo Bianco is therefore eminently qualified in the area of communication and linguistics which forms the core of the intended training package; Professor Lo Bianco, through his previous work in evaluating Customs cold targeting communication processes, already possesses knowledge of Customs working environment and an understanding of the areas in which Customs officers could improve communication skills.	Not publicly advertised. See Previous answers	See Previous answers.

CLAYTON UTZ	Customs outsourced legal services in 1999 in response to Government policy to open up the Commonwealth Legal Market to private law firms.	Public tender for Legal Panel – Customs considered commercial legal firms could provide advice on “non-core” matters through legal panel arrangements.	Advertised as part of open tender process.	Based on evaluation of criteria outlined in Request for Tender (RFT), including: Compliance with RFT requirements; Qualifications and experience of key legal personnel; and capacity to deliver nation wide legal services.
COMMUNICATIONS DESIGN AND MANAGEMENT PTY LTD	Threat Risk Assessment services.	Customs Used a selective tender approach Only one response, from Communications Design and Management, was received.	Commensurate with the scale, scope and relative risk of the proposed procurement, and consideration for achieving value for money.	See Previous answers
CONNELL WAGNER PTY LTD	Mechanical services, including the internal fit-out design for the new Customs House at Sydney International Airport.	Selective Tender - Customs utilised a shortlist of capable organisations that had responded to a recent market testing exercise for similar services.	Urgent need to engage the consultants - the requirement was time critical and recent market testing had been conducted for these services (similar procurement process).	Extensive experience in mechanical and design layout services.
DASCEM HOLDINGS	Customs does not have the skills to undertake energy audits or to produce an Environmental Management System (EMS)	Selective Tender. The tenderers were chosen from an accredited list provided by the Green House Office.	As the Green House Office had an accreditation list, their advice was sought and they provided a list of potential suppliers with the appropriate skills and experience.	Customs does not have the experience or in-house skills to undertake this type of work.

DAVID ALEXANDER HUNT	Specialist skills in strategic management of operational safety matters in a law enforcement environment.	Mr Hunt was contracted to the Australian Customs Service through "direct engagement". This method of procurement was used because Mr Hunt had unique qualifications, experience and expertise. Also see answer "c)".	The consultancy was not publicly advertised. Mr Hunt had been engaged as a consultant by Customs in 1999. In that role, he reviewed the operating environment of the Customs Marine Fleet to determine whether this unit needed a particular OH&S focus in their every-day operating environment.. In the latest consultancy, Customs viewed Mr Hunt as having unique qualifications to undertake a broader review of the emerging Customs operating environment. He already had a very good appreciation of the Customs work environment.	Mr Hunt is a former Police Commissioner of South Australia and he has extensive experience in strategic management of operational safety in a law enforcement environment and also with Customs.
DIBBS BARKER GOSLING	Customs outsourced legal services in 1999 in response to Government policy to open up the Commonwealth Legal Market to private law firms.	Public tender for Legal Panel – Customs considered commercial legal firms could provide advice on "non-core" matters through legal panel arrangements.	Advertised as part of open tender process.	Based on evaluation of criteria outlined in Request for Tender (RFT), including: Compliance with RFT requirements; Qualifications and experience of key legal personnel; and capacity to deliver nation wide legal services.

EPISTEMIC INTELLIGENCE AUSTRALIA PTY LTD	Business analyst skills – ability to identify, document and analyse business requirements and translate into IT solutions.	Direct Engagement. Specialist skills not available in-house.	The CMR project is subject to very tight deadlines. There was an urgent need to engage suitably qualified staff to meet the schedule. This was the most cost-effective method because: of previous experience; time criticality; commensurate with the size and risk profile, this was determined to be the most efficient and effective approach to the market in terms of price, quality and quantity.	CVs were called for and candidates were selected via an interview process. The supplier chosen demonstrated a high degree of skills, experience and knowledge relevant to the requirements of the position.
ERNST & YOUNG	Customs does not have the necessary staff with skills, qualifications or resources required for this service - i.e. licensed valuers, dealing with logistics issues.	This has been incorrectly reported as being a 'Direct Engagement' - the method of procurement was a Selective tender. This was deemed appropriate as there is a limited number of suppliers and the project cost of the consultancy did not warrant publicly advertising the consultancy.	The skills sets required and the projected cost of the exercise did not warrant publicly advertising the consultancy.	The consultants selected had an in-depth knowledge of the Customs portfolio for which the valuations were required; are licensed valuers; and have a significant background in Commonwealth real estate & property matters. Final selection was made on a 'value for money' basis.
ERNST & YOUNG	Accounting and audit skills	Direct Engagement. This was the most cost-effective method because: of previous experience; time criticality; commensurate with the size and risk profile, this was determined to be the most efficient and effective approach to the market in terms of price, quality and quantity; Customs knowledge from previous audits; and knowledge of Customs Property systems and requirements involved with the tender process in question.	The required skills and the projected cost of the exercise did not warrant publicly advertising the consultancy.	Knowledge of Customs requirements from previous engagements, extensive experience and highly qualified staff.
ERNST & YOUNG	An independent assessment was required of the security design principles used for the CMR System. In-depth technical experience in the application of IT security best practices was required for this work.	Reported incorrectly - The contract was awarded to Ernst and Young following a select RFQ process involving 5 companies.	Not publicly advertised. Customs chose 5 suppliers from the Department of Finance Multi Use Endorsed Suppliers List. Each supplier was sent a request for quotation and the selection was made on the basis of their response to achieve best value for money.	The request for quotation detailed in full the experience and skill requirements of the consultancy. Also see answer "a)".
FORGE	Technical skills in installation, configuration, testing and application development of Hyperion client server software.	Direct Engagement: Continuation of previous contract based on knowledge of the current market and what companies were able to offer with regard to personnel and skills at the time.	Customs has worked with a number of consultancy firms over the past 6 years in relation to provision of Hyperion (Brio) software support, training and implementation. Customs maintains contact with those suppliers in terms of which	Extensive experience and proven technical skills in the installation and configuration of Hyperion software on both Unix and NT servers; extensive experience and proven technical skills working with Customs staff on the development of business applications utilising the Hyperion software; extensive

			consultants are available and what skill sets they have to offer. The chosen Supplier has a close working relationship with the Hyperion software technical developers and highly skilled technical personnel.	experience in training people in use of the Hyperion software; and proven ability to work well with Customs staff in developing Hyperion software web interface reports to satisfy business requirements.
FUTURE TRAIN P/L	Skills in the design and development of e-learning training packages.	Direct Engagement – selected from Customs Panel of providers that was put in place via a market testing process.	In the previous financial year Customs conducted a selective tender process of companies with e-learning development skills (These companies were selected from our Panel of Providers). FutureTrain was successful in this process. In developing a further course we were more than happy with FutureTrain's work, we had a good working relationship and wanted to maintain the same look and feel between the previously developed course and the proposed course.	FutureTrain has extensive experience in the instructional design and development of e-learning courses. They have produced high standard work for Customs in the past. They have also shown superior project management skills to other e-learning developers we have used allowing for production on time at a reasonable cost.
FUTURE TRAIN P/L	Skills in the design and development of e-learning training packages.	Direct Engagement – selected from Customs Panel of providers that was put in place via a market testing process.	Not publicly advertised. Customs conducted a selective tender process of companies with e-learning development skills in the previous financial year. These companies were selected from our Panel of Providers. FutureTrain was successful in this process. However the project was delayed. When the project recommenced in March 2004 FutureTrain was directly selected.	FutureTrain has extensive experience in the instructional design and development of e-learning courses. They have produced high standard work for Customs in the past. They have also shown superior project management skills to other e-learning developers we have used allowing for production on time at a reasonable cost.

FUTURE TRAIN P/L	Skills in the design and development of online communications/information collection training.	Public tender. Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given to achieving value for money.	Consultancy was publicly advertised due to market testing requirements.	FutureTrain was chosen from the Customs panel of preferred providers. They have extensive experience in the instructional design and development of e-learning courses. They have produced high standard work for Customs in the past. They have also shown superior project management skills to other e-learning developers we have used allowing for production on time at a reasonable cost.
GUTTERIDGE HASKINS & DAVEY PTY LTD (includes first two GHD contracts in Annual Report)	Familiarity with an installation contract over the four-year contract period and all of the day-to-day records. The dispute contractor would not have accepted Customs doing this management in-house.	Direct engagement. Customs has an ongoing dispute with one of the waterfront installation contractors which claimed additional payments. Customs disputed the claim. GHD were the overall Customs project manager for all of the 13 related waterfront contracts and arrived at this status via an open tender process in 1998.	It was not viable to hire a separate party. This would have meant Customs having to spend as much time briefing the new party and they would not be efficient in reviewing all the associated four years of records.	Contract dispute management process involving attuned parties.
GUTTERIDGE HASKINS & DAVEY PTY LTD	Architectural, structural, electrical, mechanical, communications, fire detection / protection and hydraulic services design and documentation.	Direct engagement (The Annual Report states wrongly that the selection process was through a select tender). The consultant was heavily involved in design and documentation work in relation to similar facilities in Melbourne, Sydney and Brisbane, and had significant corporate knowledge from that involvement.	The consultant had previously won a publicly advertised open tender for similar services. The experience gained from supplying those services increased the overall quality the consultant was able to provide. The costs associated with this consultancy were comparable with those in the open tender process.	The consultant had extensive architectural, structural, electrical, mechanical, communications, fire detection / protection and hydraulic services design and documentation experience. The consultant was involved in design and documentation work in relation to similar facilities in Melbourne, Sydney and Brisbane, and had significant corporate knowledge from that involvement.

HART AVIATION SERVICES PTY LTD	Specialist skills and experience in relation to aviation technology.	Direct engagement - known specialist skills applicable to the requirements of the project.	Not publicly advertised. The CMS04 project is subject to very tight deadlines to ensure that handover date for the new contract coincides with completion of current contracts. CMS04 requires consultants with very high levels of probity and confidentiality to ensure integrity of the CMS04 tender process. An urgent requirement for specialist advice on highly complex aspects of aviation technology became apparent during preparation of RFT. The requisite level of skill was not available within Coastwatch or other Government organisations providing advice to project staff. Hart Aviation were engaged because they were known to have the specialist skills to provide advice in relation to RFT's, were in a position to provide immediate advice and to meet the required tight timeframe, and were not a potential tenderer or connected with a potential tenderer.	Specialist skills and experience in relation to aviation technology.
IT NEWCOM PTY LTD	To undertake benchmarking, it was necessary to compare Customs with other private and public sector organisations. Customs does not have this type of expertise.	A select tender process was undertaken as there are a limited number of companies in the market that have sufficient databases to use for accurate comparative analysis.	Not publicly advertised. A select tender process was chosen due to the low value of the tender and the limited field of companies with the most comprehensive comparative databases.	IT Newcom demonstrated strength in benchmarking and provided a value for money solution.
JUSTIN POYSER & ASSOCIATES	Technical Project Advisor – ability to ensure value for money by ensuring technical solutions delivered by other contracted providers meets Custom's specified requirements. Specific skills in the contract negotiation and management areas.	Direct Engagement. Specialist skills not available in-house.	The CMR project is subject to very tight deadlines. There was an urgent need to engage suitably qualified staff to meet the schedule. This was the most cost-effective method because: of previous experience; time criticality; commensurate with the size and risk profile, this was determined to be the most efficient and effective approach to the market in terms of price, quality and quantity.	The consultant could demonstrate a high degree of skills, experience and knowledge relevant to the requirements of the position. Also, the consultant was previously employed by the Customs IT Branch and moved to the CMR project because of specialist expertise.

KEABLE FERGUSON PTY LTD	Specialist skills in relation to directing large scale Commonwealth procurement processes.	Direct engagement. The CMS04 project required an advisor who possessed high level Government liaison and Project Management skills together with specialist skills in relation to directing large scale Commonwealth procurement processes.	The CMS04 project had reached a point where it needed to be supplemented with a person who had high level Government liaison skills together with specialist skills in relation to directing large scale Commonwealth procurement processes. A consultant who had held senior executive positions within the Department of Defence and had extensive experience in a number of major multi disciplined Defence acquisition projects was available to make an immediate start.	Extensive experience in conducting major multi disciplined Commonwealth procurement processes.
KPMG	Specialist skills in relation to extension of maritime surveillance contracts.	Extension of services in relation to an existing contract for which KPMG had been selected from a select tender process.	KPMG had a pre-existing contract with Coastwatch, from a Select Tender process, to provide advice for the CMS04 project in relation to PPP contracts. KPMG therefore had gained the understanding of Coastwatch's requirements in relation to its future maritime surveillance contract to provide urgent advice that was required during contract negotiations in relation to extension of the existing contracts.	Specialist skills and experience in relation to contract negotiation.
KPMG	Requirement to conduct an independent audit of purchase procedures of foreign currency by the Payment Service Provider (PSP) for payment of Tourist Refund Scheme (TRS) claims and associated transaction and confidence testing of refunds. These skills include proven experience in foreign exchange auditing and the ability to conduct forensic analysis of foreign exchange purchase arrangements in a global and particular multinational context. These skills were not available in-house.	Direct Engagement - 5 major accounting firms were directly approached to provide suitable candidates for consideration by Customs. Customs and PSP both noted possible conflict of interest in employing certain auditing firms, due to their representation of the direct global competitors to the audited service provider and internal audit role to both Customs and the PSP. The choice of auditor was negotiated jointly by Customs and the PSP to account for objectivity and any perceived conflict of interest. Customs and PSP agreed that KPMG provided the most experience in this field as well as the least possibility for conflict of interest.	Not publicly advertised. Five major accounting firms were approached directly in order to assess the skill sets available to conduct this audit. The specialist skills required (ie. proven experience in foreign exchange audits) are only held by a few companies in the market place and it was from this pool of expertise, that Customs sought expressions of interest.	KPMG was chosen to conduct the audit because of: Proven and recent experience with auditing foreign exchange in the private and public sector; the number of KPMG candidates with depth in conducting foreign exchange reviews; the KPMG foreign exchange expert was based in Canberra office and was engaged in reviews of public sector agency foreign exchange purchases and compliance regimes; and KPMG presented the best all-round candidature in performance audit, foreign exchange investigatory audit, contract management and corporate treasury.

KPMG	Specialist skills in respect of financial approach, accounting treatments and performance payment aspects of CMS04 RFT.	Selective Tender - Government (Department of Defence) had previously advertised a public tender for consultants experienced in the area of Government policy relating to Public Private Partnerships. This process resulted in a list of seven consultants with the requisite experience and skills. Customs developed a shortlist of consultants from this list and invited the shortlist to provide a tender for the CMS04 project. KPMG were chosen from the responses. Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	Use of financial panel for Department of Defence.	Private Financing Initiative experience and Private Financing Initiative experience and experience in financial accounting treatments.
LAW & ECONOMICS CONSULTING GROUP	Statistical analysis of a longitudinal database using econometric modelling. The analysis required both economic and legal expertise, in particular, relevant to anti-dumping.	LECG were directly engaged to provide applied economic assessment in a project examining Australia's anti-dumping activity and its determinants. LECG had previously provided legal and economic advice in relation to a complex anti-dumping matter and as such had proven the knowledge necessary to quickly and effectively contribute to the project. Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	As it was expected that the project scope would involve consultancy fees of less than \$20,000, and given LECG's proven skills in the area, it was not productive to publicly advertise the consultancy - commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	LECG provided a team of expert economists and lawyers. These skills were complemented with specific previous government experience in productivity and competition law.
LOGICACMG	Risk assessment skills in the field of voice telecommunications.	Direct Engagement. LogicaCMG was already employed within Customs on similar projects and commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given achieving value for money.	Given the expected value of the consultancy, it was not considered to be cost effective to do so - Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	Extensive skills in telecommunications risk assessment.
LOTOS SYSTEMS PTY LTD	Specialist skills in relation to engineering and environmental impact studies.	Direct engagement. The supplier was engaged to undertake a site survey consultancy service on the feasibility of conducting a field test in the Torres Strait for relocatable microwave radar. The supplier was chosen due to their specialist expertise (they had previously field tested the Department of Defence Containerised AN/SPS-67 surface and low air search radar with the Royal Australian Navy).	Not publicly advertised. The radar was operated under an integrated project team approach comprising the Department of Defence, the Royal Australian Navy and Lotos.	Extensive skills in engineering and environment qualifications and experience.

MICHAEL ROCHE	Specialist skills in relation to directing large scale Commonwealth procurement processes combined with in-depth knowledge of civil maritime surveillance operations.	Direct Engagement – Specialist Skills not available in house. See following answers "c)" & "d)".	The CMS04 project is subject to very tight deadlines to ensure that the handover date for the new contract coincides with completion of current contracts. The previous strategic adviser to CMS04 project concluded duties at a critical stage in the development of the Request for Tender, resulting in an urgent need to find a replacement with extensive experience in strategic procurement. The consultant has in-depth knowledge and experience of civil maritime surveillance, response operations and requirements, and strategic large scale procurement processes for both civil and defence requirements, including public-private partnership issues	Extensive experience in directing large scale Commonwealth procurement processes combined with in-depth knowledge of civil maritime surveillance operations.
PRICEWATERHOUSE COOPERS	Accounting and audit skills	Public tender - Commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given to achieving value for money.	Consultancy was publicly advertised due to market testing requirements.	Previous experience with PWC demonstrated their expertise in conducting financial audits, running audit committees, and conducting performance evaluations.
PROFESSOR DUDLEY CREAGH	Specialist, independent x-ray advice and evaluations concerning radiation and related technologies.	Direct Engagement. Specialist Skills not available in house.	Not publicly advertised in 2003-2004 as original contract signed on 1 July 2002.	The consultant has the skills, qualifications and experience to provide the services in an efficient and controlled manner.
QUALITY MANAGEMENT SOLUTIONS	The contract was for the completion of a complex investigation into a suspected breach of the Code of Conduct. There was no staff with the appropriate skills available to be taken off line for to complete the investigation.	Direct engagement due to need for specialist skills and time was of the essence.	The investigation involved a large number of staff in a regional office and it was important to complete it as quickly as possible. The time taken to publicly advertise the contract would have jeopardised the investigation.	The consultant is a former senior public servant with many years experience conducting complex investigations of a similar nature.
ROGER ROSE	Requirement for a research economist who specialises in agriculture and agricultural subsidies (particularly EC subsidies).	Direct engagement – the consultancy was required in a very short time frame. The availability of a consultant with the specific and required skill sets was considered to be very limited. The selected consultant was recommended by DFAT and ABARE and the expected value of the contract did not warrant a market process.	The consultancy was required urgently and commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given to achieving value for money.	Consultant was recommended by DFAT and the ABARE. The consultant was the former senior research economist with ABARE.

SIGNET GROUP INTERNATIONAL PTY LTD	SIGNET were engaged by Attorney General's Department to conduct an external review of Customs security. Customs was required to meet the costs of this engagement.	Direct engagement approved by Minister in consultation with Secretary Attorney General's Department. Customs did not select SIGNET.	To ensure that national security had not been compromised following a specific theft of computers from Customs, the external review of Customs security was required to commence immediately.	SIGNET consists of two experienced senior ex-government officials - namely a former Director General of ASIS and a former Deputy Commissioner of the AFP. Their experience in matters of security, probity and investigations were considered well suited for reviewing Customs security.
SIGNUM	Chief Scientific Adviser to Customs - provides advice on the effective use of existing technologies, evaluation of new technologies and possible uses of emerging technologies that can be utilised in the detection and identification of illegal vessels and aircraft, and restricted or prohibited goods and substances.	Extension of existing contract.	Extension of existing contract - commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given in achieving value for money.	As the Customs Chief Scientific Advisor, the consultant has the skills, qualifications and experience to provide the services in an efficient and controlled manner.
SOUTHERN CROSS COMPUTING PTY LTD	IT development skills - Customs IT outsourced provider EDS could not undertake the work, as hardware was not owned/supplied by EDS. In house resources were used to develop presentation content. The selected provider developed the technical solution for deployment.	Direct engagement. During discussions with existing suppliers it became clear that options for the continuation of the existing service or a move to an updated version would be cost prohibitive - the existing supplier had no intention to continue maintenance support of the current software and indications were that a move to an updated version would be in the order of \$160,000. A preliminary investigation for an alternative off the shelf system was undertaken. During this work, the potential of a small user developed application was identified as a low cost quick alternative.	Customs had formed a view that retention of the existing provider managed solution was not viable at the conclusion of the original contract. Extended discussions with the supplier at that time had been unable to establish a suitable, long term solution without a requirement for significant further cost.	Southern Cross Computing has previously supplied skilled personnel to undertake work on Customs systems and developed practical databases used by Customs.
SWALE HYNES CONSULTING	Highly specialised commercial real estate knowledge and independent consultancy services to assist with the negotiation of a new lease for 2 Henry Street Fremantle.	Direct Engagement: Swale Hynes was selected from the WA Building Panel established in 2001 for the provision of building services; Swale Hynes had previously prepared an Option paper in relation to the availability of alternative sites to accommodate the ACS regional office following an approach by the Landlord to enter into negotiations for an extended lease; Swale Hynes had earlier successfully represented the ACS in Lease Review negotiations; and - Given these factors it was considered appropriate to engage Swales Hynes because of their intimate knowledge of all the issues and their previous good performance.	Swale Hynes had pre-qualified through the WA Building Panel - commensurate with the scale, scope and relative risk of the proposed procurement, consideration was given to achieving value for money.	See Previous answers

TESTRIGHT COMPUTING PTY LTD (4 Contracts)	Test Analyst – ability to develop test cases and specifications for user acceptance testing and to execute test cases.	Direct Engagement. Specialist skills not available in-house. Because of the intermittent need for such skills Customs does not have an in-house testing cell. The project schedule required more testing resources than Customs had at various times. This excess demand was filled by supplementation from the IT testing market.	The CMR project is subject to very tight deadlines. There was an urgent need to engage suitably qualified staff to meet the schedule. This was the most cost-effective method because: of previous experience; time criticality; commensurate with the size and risk profile, this was determined to be the most efficient and effective approach to the market in terms of price, quality and quantity.	CVs were called for and candidates were selected via an interview process. The consultant could demonstrate a high degree of skills, experience and knowledge relevant to the requirements of the position.
UNIQ CONSULTING PTY LTD	Specialist technical advice in IT (CMR/CCF) security	Direct engagement. Most suitable and cost-effective given the expected contract cost.	Full public tender was not considered to be appropriate or cost effective given the expected contract cost.	The Consultant had unique prior experience of the CCF gateway/CMR security through previous experience with Customs.
WILLIAM HOGAN	Policy development experience at a senior level and detailed knowledge of the Customs operational and general law enforcement environments.	Direct engagement - Consultancy deliverable was required against a tight schedule. Existing Customs resources were unavailable for release. The Consultant had the required Customs knowledge and skill base.	Consultancy was not publicly advertised because consultancy deliverable required a strong appreciation of the Customs operating environment that could not be acquired within a reasonable period.	The consultant has significant experience with Customs and in relation to law enforcement, intelligence and related policy for Customs.
WINMILL INFORMATION TECHNOLOGY PTY LTD	Provision of technical advice to facilitate testing of system functionality; Assist with documentation and testing; and development of new functionality.	Direct Engagement. Specialist skills not available in-house.	The CMR project is subject to very tight deadlines. There was an urgent need to engage suitably qualified staff to meet the schedule. This was the most cost-effective method because: of previous experience; time criticality; commensurate with the size and risk profile, this was determined to be the most efficient and effective approach to the market in terms of price, quality and quantity.	The consultant had worked on the project before and was found to deliver at a high standard. Proven technical expertise.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 107

Senator Ludwig asked the following question on 2 December 2004:

For each consultant engaged in the 2003-04 financial year, as published in the 2003-2004 Annual Report, can the Department provide details of a) specifically what specialist skills were not available in house b) why the selection process specific to that consultancy was chosen, c) why each specific consultancy was or was not publicly advertised, d) the experience or skills base that led to each consultant being selected.

The answer to the Honourable Senator's question is as follows:

Customs let 36 consultancy contracts during 2003/04 (44 in 2002/03). Expenditure on consultancy services was approximately \$5 760 000. This included contracts entered into during the year and 18 contracts from previous years that were still in progress.

For the purposes of this report, 'consultant' was taken to be 'an individual, a partnership or a corporation, engaged to provide professional independent and expert advice or services' as advised in the Department of Finance and Administration's *Guidance on Identifying Consultancies for Annual Reporting Purposes (FM Guidance No.12, July 2004)* and were distinguished from other contractors due to the nature of the work they performed.

From the 54 consultancy contracts that were listed in the 2003/04 Annual Report, 35 were direct engagements, 9 were select tender, 7 were publicly tendered and 3 were contract extensions. Attached is a detailed schedule with details of each consultant engaged in the 2003-04 financial year, as published in the 2003-2004 Customs Annual Report.

In considering value for money as the core principle underpinning procurement within the Commonwealth, it is fundamental to comparatively analyse all relevant costs and benefits of each compliant proposal throughout the whole procurement cycle.

The procurement process is an important consideration in achieving a value for money outcome. Participation in any procurement process imposes costs that were carefully considered when Customs determined the appropriate process to use¹. As no single purchasing method suits all situations, Customs selected procurement processes commensurate with the scale, scope and relative risk of the proposed procurement.

This approach took into consideration matters comprising of:

- Performance history of each prospective supplier;
- Maturity of the market;
- The relative risk associated with each proposal;

¹ Commonwealth Procurement Guidelines

- The flexibility to adapt to possible change over the lifecycle of the property or service;
- Financial considerations including all relevant direct and indirect benefits and costs over the whole procurement cycle;
- The evaluation of contract options (for example, contract extension provisions); and
- Ensuring that procurement methods do not discriminate against ANZ suppliers, particularly SME's (as set out in the Commonwealth Procurement Guidelines).

Additionally, procurement for the 2003-2004 financial year complied with the Commonwealth Procurement Guidelines and the Chief Executive Instructions that were in place during that period.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 108

Senator Ludwig asked the following question on 2 December 2004:

Referring to the article 'Search for Drugs on School Party Cruise', Daily Telegraph
30 November 2004:

- a) What was the cost to Customs of this operation?
- b) Did P&O defray costs to Customs? Was this operation done as part of the regular screening regime for passengers boarding a ship? If not, was this operation based on a risk assessment?
- c) Can the Department release that assessment?
- d) Was the media alerted to this operation by means of an official release?

The answer to the honourable senator's question is as follows:

- a) The operation was conducted over two "schoolies" cruises on 29 November and 8 December 2004. The total cost to Customs was \$11,101, representing overtime expenses.
- b) P&O did not provide any funding in support of the operation. Past operational activity on schoolies cruises have yielded a number of small drug seizures. Normal passenger vessel departures are not routinely subject to such a level of scrutiny unless warranted by a risk assessment. This operation was conducted as result of such a risk assessment.
- c) No.
- d) Customs Corporate Communication advised Channel 7's 'Border Security' TV program in advance about the operation. Customs did not notify any other media organisation.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 109

Senator Ludwig asked the following question on 2 December 2004:

Over the last 12 months, how many cruise ships were screened in this way in (individually) Brisbane, Melbourne, Sydney, Adelaide, Darwin, Hobart, Perth and the Gold Coast? What percentage of cruise ships are screened in this way?

The answer to the honourable senator's question is as follows:

Over the last 12 months, the two "schoolies" cruises were screened in this fashion in Sydney. No other ports have conducted screening operations in this way.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 110

Senator Ludwig asked the following question on 2 December 2004:

Was any request made by P&O for Police to provide the screening? Was any request made by other law enforcement officers?

The answer to the honourable senator's question is as follows:

Customs has no information whether P&O made any request to the NSW State Police to provide screening.

No other law enforcement agencies contacted Customs in relation to these cruises.

The Operation was not a joint Customs/AFP Operation. However, Customs requested an AFP presence for the Operation under the 1986 Ministerial Agreement, where if Customs detects drugs they must refer the matter to the AFP for investigation. This is normal operational activity.