



COMMONWEALTH DEPARTMENT OF
VETERANS' AFFAIRS

NATIONAL OFFICE

The Secretary
Senate Finance and Public Administration References Committee
Parliament House
CANBERRA ACT 2600

Dear Ms Donaldson

SUBMISSION REGARDING COMMERCIAL-IN-CONFIDENCE MATERIAL

Thank you for your letter of 17 May 2000, addressed to Dr Neil Johnston, Secretary, Department of Veterans' Affairs. I am responding on his behalf.

Overview of DVA contracting

The Department of Veterans' Affairs (DVA) is engaged in a range of contracts, but most particularly spends some \$2.7 billion annually on veterans' health care. DVA has arrangements with the Australian health industry as a whole, including contracts with State and Territory governments and standing offers with some 380 private hospitals and day surgery centres and other health providers. Overall these arrangements potentially involve over 40,000 health care providers, including a significant number of individual practitioners. Annually, approximately 16 million services are paid for through the Health Insurance Commission, which acts as DVA's paying agent for most health services providers.

In the context of discussing this motion, the distinction between various forms of contractual types, including standing offers – see comments below – is very important for DVA. In the health area, a contract generally arises only when a specific episode of care is provided to a veteran. Even a formal deed, such as with a private hospital, effectively creates only a standing offer, setting the rates applicable when specific services are rendered. The overwhelming bulk of expenditure is in relation to standing offers or less formal arrangements where there is no guarantee of any level of activity, particularly since the selection of a provider involves an important element of veteran choice.

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DVA's contractual arrangements ultimately reflect the complex range of providers and services involved in veterans' care. Indeed, some general practitioners, many specialists and other providers only indicate acceptance of DVA rates at the time of the service to the veteran. It is therefore not appropriate to report these arrangements as standing offers, as well as the fact that there is a significant degree of veteran choice that determines the ultimate actual expenditure on a particular potential provider.

Comments on the Notice of Motion

The Department of Veterans' Affairs (DVA) supports accountability and transparency in government contracting.

However, DVA agrees with a number of the submissions to date that recommend that the information sought in the notice of motion be clarified in a number of places.

One area for clarification should be the definition of a "contract". For example, this may equate with the definition of a "Commonwealth contract" under the Financial Management and Accountability Regulations, which can include 'standing offers', which are of particular concern to DVA. It is also not clear whether it would include an "Agency agreement", which is defined to cover arrangements between two agencies of the Commonwealth.

Regarding the concept of "confidentiality", the focus of the References Committee Hearing of 12 May 2000 appeared to be on agreements that might inhibit disclosure to Parliament. Many standard agreements may inhibit disclosure by contractors of Commonwealth information and certainly of citizens' personal details. Also, standard DVA clauses that do require confidentiality from the Commonwealth include exceptions for governmental purposes, such as ANAO access or reporting to Parliament.

However, it may not always be in the Commonwealth's commercial interests, in terms of value for money or support for small to medium enterprises, to publicise the rates and prices being offered by industry to government. Industry would be sensitive about the full text of pricing and business issues being released to the public and their competitors. The expectations of private sector suppliers have not to date included public exposure of full contractual commitments to government. It may be that a middle path can be found between confidentiality and full publication, but only after consultation with industry.

Consultation may also be necessary with the Privacy Commission regarding personal information about patients or even doctors that might be included in that documentation. For example, simply not disclosing identifying details of a veteran being cared for in a hospital may be insufficient, as describing the hospital, doctor, date and location could still identify that veteran to some in the community.

Costs involved with the proposed reporting mechanisms

The proposed mechanisms could not be implemented by DVA easily in the short-term.

DVA believes the implementation time would involve several months at a time of significant competing demands on departmental information technology resources. It could also cost something in the order of hundreds of thousands of dollars. There would be initial work involved to ascertain costs more accurately, depending on the exact requirements involved. Relevant factors would include:

- whether to develop a separate database reporting information or whether to amend the financial management information system itself. There would be costs for either option in terms of DVA staff and the contractor,
- whether this reporting would be integrated with the Gazette Publishing System (GaPS), managed by the Office of Government Online, or whether it would be separate,
- staff costs, contractors' costs and information technology infrastructure, implementation and maintenance costs regarding DVA IT systems generally,
- reviewing all the relevant arrangements, which can involve legal consideration that may involve external resources,
- consulting with the sectors of industry that DVA contracts with, and
- documentation and training for DVA contract managers nationally.

In respect of the proposal raised during the References Committee Hearing to (potentially) place entire copies of agreements costing over \$10,000 on DVA's website, DVA would need to clarify if the focus includes just standing offers or also specific contracts, such as for episodes of care for specific veterans.

Recommendation

There would be value in giving consideration to reporting mechanisms that build on the current whole-of-government approaches, such as GaPS. DVA is currently engaged in discussions with DoFA regarding changes to the reporting system that DVA believes would provide agencies with easier reporting mechanisms and provide Parliament and the public with more useful information about Commonwealth expenditure on procurement.

For example, DVA notes that during the Hearing there were comments that GaPS does not identify whether a contract has ended or is current. It may be worth observing that many services agreements relate to milestones and most contracts can involve ongoing rights, licences and potential liabilities, so any reporting that suggested contracts have "ended" may need to clarify that this is not a determinative legal statement.

If a unique reporting arrangement for the Senate were created then DVA recommends that the threshold be raised from \$10,000 to something beyond \$100,000 and nearer to \$1 million for each contract or standing offer. Alternatively, reporting could focus on advising the Committee of agreements that place confidentiality obligations on the Commonwealth (or any of its employees individually), as opposed to the contractor.

Conclusion

It follows from the above comments that there would be value in reviewing the proposals and placing greater focus on the specific outcomes sought while allowing more efficient solutions to be devised through consultation.

If you wish to contact me regarding this submission I can be contacted on 02 6289 6744.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Campbell', with a long, sweeping horizontal stroke extending to the right.

Ian Campbell
DEPUTY SECRETARY

23 June 2000