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SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES
COMMITTEE

Reference: The government's information technology outsourcing initiative

WEDNESDAY, 7 FEBRUARY 2001

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SENATE
FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE
Wednesday, 7 February 2001

Members: Senator George Campbell (*Chair*), Senator Watson (*Deputy Chair*), Senators Buckland, Lightfoot, Lundy and Ridgeway

Substitute members: Senator Stott Despoja for Senator Ridgeway

Participating members: Senators Abetz, Allison, Brown, Calvert, Carr, Chapman, Conroy, Coonan, Crane, Eggleston, Faulkner, Ferguson, Ferris, Gibson, Harradine, Harris, Knowles, Mason, McGauran, Murphy, Murray, Payne, Tchen and Tierney

Senators in attendance: Senators Buckland, George Campbell, Conroy, Eggleston, Faulkner, Ferguson, Gibson, Lightfoot, Lundy, Tierney and Watson

Terms of reference for the inquiry:

For inquiry into and report on:

The Government's information technology (IT) outsourcing initiative in the light of recommendations made in the committee's report, *Contracting out of government services—First Report: Information technology*, tabled in November 1997, and the Auditor-General's report No. 9 of 2000-2001, and the means of ensuring that any future IT outsourcing is an efficient, effective and ethical use of Commonwealth resources, with particular reference to:

(a) the need for:

- (i) strategic oversight and evaluation across Commonwealth agencies,
- (ii) accountable management of IT contracts, including improved transparency and accountability of tender processes, and
- (iii) adequate safeguards for privacy protection and security;

(b) the potential impact on the capacity of agencies to conduct their business;

(c) savings expected and achieved from IT initiatives; and

(d) the means by which opportunities for the domestic IT industry, including in regional areas, can be maximised.

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Committee met at 5.31 p.m.**HUMPHRY, Mr Richard, Independent Reviewer**

CHAIR—Welcome. I declare open the public hearing of the Finance and Public Administration References Committee inquiry into the government's information technology outsourcing initiative. I welcome my Senate colleagues, Mr Richard Humphry and officers from the Department of Finance and Administration and OASITO. On 29 November 2000, the Senate referred this matter to the committee for inquiry and report. The committee held its first public hearing on 5 December, called for public submissions during January and will hold the majority of its public hearings in March this year. I wish to advise for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to evidence provided. I now invite Mr Humphry to discuss the findings of his review, which were released on 12 January. Do you wish to make an opening statement?

Mr Humphry—I would be happy just to take questions, thank you, Mr Chairman.

Senator LUNDY—As a threshold issue, Mr Humphry—and thank you for appearing before the committee—are you aware that the committee has requested copies of submissions received by you as part of your independent inquiry and that these are no longer available from the department, nor do they seem to form part of the formal record of the inquiry? The committee would like to clarify what has happened to those submissions and other inquiry records. Could you please tell us what you know about the fate of those submissions.

Mr Humphry—When the report was being compiled, I placed great store on receiving candid advice—and that was not only in the discussions that I held but also in the submissions that were made. I advertised, as you know, in the papers for submissions to be made to me and I took the view that those making those submissions were making them to myself and would not expect them to be made public. At the conclusion of the review, having studied these reports, it seemed to me I faced an issue of whether or not to put these reports somewhere and, if so, where. This was not a standing arrangement; when the review was completed, this committee was wound up and there was no place to which the submissions should go. So I sought legal advice on how those documents might be treated.

The Australian Government Solicitor has advised me that these submissions do not form part of Commonwealth records and, therefore, are not covered by the Archives Act and, accordingly, they remain the property of those who have written them. So I have sent those documents back to those that submitted them. I have identified in the report, as you know, those organisations which made submissions and I believe, if this committee wishes to obtain those submissions, the appropriate course would be to contact them and see if they are willing to provide them.

Senator LUNDY—In terms of taking that advice from the Australian Government Solicitor, at what point in your inquiry did you request that advice and subsequently receive it? Was that before or after you had received any submissions?

Mr Humphry—It was after I received the submissions. There were a number of matters on which I had to seek advice from the Australian Government Solicitor—over the content of the report, its structure and some issues that really required clarification about potential liability—and all of those matters were addressed in the opinion. This was part of that process. The idea

was that, having listened through extensive interviews with various parties and with written submissions, at the end the report would be as I have stated in here: my judgments and what I believed were necessary steps to address the issue of forward risk.

Senator LUNDY—In terms of receiving that advice, it is quite clear by virtue of the advertisement that was placed in the *Financial Review* on 18 and 19 November that there was no indication at that stage that the submissions would not be retained by the government and, certainly, no indication based on the advice you have just provided here that the submitters of those documents would have had any other expectation otherwise. So I am really asking you what your motivation was for preventing the retention of those submissions: that is, what prompted you to get that Government Solicitor advice specifically on that issue, given that up to that point there seemed to be little to indicate any reason or justification whatsoever for not allowing those documents and submissions to be retained?

Mr Humphry—I believe that the individuals who have prepared the submissions should have their opinions respected. If they are happy to provide that information publicly, I am happy for them to make that decision; but I did not feel that I was in a position to make that decision for them. Also, a number of those submissions that were put to me were marked ‘in confidence’ and I do not think that the authors of those reports expected the information to go any further. The submissions were to me as an independent reviewer; they were not addressed to the public at large. I have taken a step which I believe was the correct one, and that was to protect the interests of the authors of those reports.

Senator LUNDY—When you received that advice from Attorney-General’s, did they advise you as to the provisions of the Archives Act and its general practice?

Mr Humphry—They did. They specifically addressed the issue, and the issue revolved around whether those documents formed part of Commonwealth records. Their opinion was that they did not.

Senator LUNDY—Are you able to provide the committee with that advice that you received from the Australian Government Solicitor?

Mr Humphry—I would have to take advice from the Australian Government Solicitor. The advice is extensive on a range of other issues. If it is possible for them to provide that advice in the form of an extract, I would be happy to do so. I have no reason not to provide it to you.

Senator LUNDY—Thank you. It may be possible for the committee to pursue that also, but could we leave it with you in the first instance?

Mr Humphry—The only issue in my mind would be whether there was any legal privilege attaching to them; I just don’t know.

Senator LUNDY—I note in your report that you had a series of interviews as well as receiving a series of formal submission. In the early stages of your inquiry, was it your approach to encourage people to make submissions on the basis that they would be confidential? I am just trying to get an idea of to what degree you may have led people to believe that they would be confidential.

Mr Humphry—When I conducted interviews with various people who appeared before me, I was at pains to point out that I intended not to identify people or individuals against the opinions that they had given. It was more important to me to get a candid view of what their opinions would be, because at issue for me under the terms of reference I was facing was to form judgments on whether or not future risk would create problems for service to the community. It was important that I got a frank and full view from those that I spoke to, and the best hope I had of that happening was to protect them in that way. Most of them were very appreciative of that. Nobody said to me, ‘I want this information to be made public.’ Many of them had quite strong views that they wanted to put.

Senator LUNDY—Why do you think they were so keen for their submissions not to become public?

Mr Humphry—It is not that they were keen for them not to be made public; it was just that they felt that it was important that they address the issues in the most full and frank way. They were explaining issues, some of which related to the ongoing business within their organisations. I needed to understand, in forming the view, at what point were difficulties occurring, if any. As the report indicates, they were principally tied up with the transitions provisions, so we spent quite a lot of time on dealing with really the minutiae of issues that had arisen and trying to tease out of that what were the basic causes. It was that area that I was mostly interested in.

Senator LUNDY—I think that approach is a worthy one. I think the issue that concerns the committee most is that, with regard to the receipt of those submissions and retention of those submissions, there is a formal relationship with the Archives Act. Retention of those submissions would not necessarily have led to public disclosure of those submissions, as committees such as this are quite often requested by witnesses not to make their submissions public, and the committee actually makes a determination about that. Retention of those submissions was not necessarily going to result in public exposure of those submissions.

Mr Humphry—There was no guarantee that they would, or would not. I could not be sure of that. In any event, you have called for public submissions and these submissions were made to me—

Senator LUNDY—To this inquiry—yes, we have.

Mr Humphry—Yes, and any member of the community is free to put those in. The point is that these submissions were made to me. I have simply returned them to the authors and if they wish to submit them to this committee that is, I think, a matter for their decision. It is not an intention to prevent them from being made to you.

Senator LUNDY—I did not imply that at all. What I am curious about is the process contained within your independent inquiry as opposed to how this particular committee extracts information. We do think there is a genuine opportunity to explore the contents of those submissions whether or not the committee chooses to make them public or not. Can I ask you whether or not you have made the submissions available to the Department of Finance and Administration?

Mr Humphry—No. In fact, in setting up the review there were a number of officers who were assigned to assist me. We actually set up in a physically separate location; we used separate letterheads; we wanted to make absolutely certain that this process was independent of the executive government. Interviews that were conducted, which were conducted actually either at the place of business of the persons I was seeing or where we had our offices, were right apart from any administrative organisation of the government.

Senator LUNDY—In terms of pursuing your advice with the Government Solicitor, did you specifically ask about your entitlement to prevent the department from seeing those reports as well as preventing them from being made public?

Mr Humphry—No; the issue did not really arise. All of the documentation was maintained internally and then at the end of the period the report was produced. Those notes which I had taken I have retained, but that is really all; everything else has now been released. No information, as far as I am aware, is maintained in government departments.

Senator LUNDY—Did the Department of Finance and Administration request copies of those submissions?

Mr Humphry—No. At no stage did anybody seek to have information provided by us. I just continued with the review and, as you know, it was for quite a short period so it was fairly intensive.

Senator LUNDY—Apart from the personal notes, you understand there are no other records retained by the department of finance whatsoever?

Mr Humphry—That is right.

CHAIR—Are you saying that the secretariat that was provided to you did not keep any records of the meetings you had with various witnesses or submitters to your inquiry?

Mr Humphry—Most of the interviews that I conducted I did myself, so the notes are really just personal notes as aids for me in forming my views. There were some interviews conducted by those officers who were assigned to me, simply to get through the large number of people. I would presume that they have retained the notes that they took, which were simply their personal notes.

CHAIR—Are you confident of that fact?

Mr Humphry—Yes, I would be confident of that fact. There were a number of versions of the report. Some of those that I have marked up are probably still in existence. These were actually as we finalised the report. The legal advice I received was not just on the issue we have been discussing but also on the structure of the report and whether it brought to bear any legal issues. There were issues of contract and so on that had to be addressed. I wanted to make sure that the report could stand and not create administrative difficulties for the delivery of programs.

CHAIR—You may not be able to recall it, but how many of the submissions you received were marked ‘confidential’?

Mr Humphry—I would be relying here on memory, but it would probably be a quarter or so of them. I should point out that some of these issues that I was looking at were dealing with sensitive matters, not so much about the submission on the issue of IT outsourcing but more relating to the substance of what that department or organisation carried out—the Federal Police, for example. Those issues also affected it. People, in bringing information to bear, also had to point out where there might be legislative impediments to access to information, for example. We ranged over a very wide area of government activity.

Senator LUNDY—In seeking advice from the Government Solicitor, was the prompt for you to do that your knowledge of the awareness of the provisions of the Archives Act, or was it at the request of submitters? Or were they your own views about whether or not the submissions should go beyond your doorstep?

Mr Humphry—The initiative of it was simply that at the conclusion of the review my concern was what would happen to the documentation. What would we do? It was on that basis that I sought legal advice. I wanted to know a range of options that I had available to me. It was pointed out to me that these did not form Commonwealth records. Accordingly, I formed the judgment that it was best that they were returned to the authors of those reports to protect them.

Senator LUNDY—Given that it was a review initiated by the minister for finance, did you have any concept of that body of evidence that you collected actually forming part of the Commonwealth record and hence, in effect, substantiating in large part your findings of the report?

Mr Humphry—The report was produced, at the request of government, on future risk. It is, in essence, what my judgments were of what exposures were likely to occur with the IT outsourcing program. I was reporting to the executive government at their request on a specific set of criteria and terms of reference. I needed to get access to the necessary information to form those judgments, so I was not concerned about what other aspects of government they would then wish to pursue. That is a matter for this committee or for government to pursue through their own avenues. I have identified those that have produced submissions to me and you are free to approach them. I think that is the appropriate course of action and the best way to handle it.

Senator LUNDY—Was it your view that, if the submissions had been retained by the department in the first instance for the Commonwealth record, the people making the submissions were potentially compromised or vulnerable in any way as a result of what they disclosed in those submissions?

Mr Humphry—I cannot say that. As far as I am aware the Department of Finance and Administration itself is not involved in the outsourcing project. That is a matter on which the office of asset sales operates and in fact reports, as I understand it, directly to the minister. It just seemed to me that in the spirit of the way in which I conducted the meetings with people—and I was not going to disclose the content of those discussions—the same process should apply to the written submissions. I have no problem if those authors wish to have those submissions

made public. That is entirely within their prerogative. I did not feel, however, that it was appropriate for me to take that step. But I was guided by the legal advice as to whether they formed part of the formal records of government. The answer was no.

Senator LUNDY—Are you aware of anyone in the department or OASITO who is taking steps to retrieve those submissions?

Mr Humphry—As far as I am aware that has not been a problem. There was just a short note back to the authors.

Senator LUNDY—I would like to revisit a few of the logistics associated with the inquiry. We are aware that the Department of Finance and Administration provided you with some secretariat support, and you have mentioned that. Could you tell me the specific nature of that support, where it was located and the sort of support that was provided through the course of the inquiry?

Mr Humphry—There were a number of officers that were allocated to me. That team was led by an officer, Phillip Prior. Mr Prior and a number of other officers really were provided in order to, firstly, set up the administrative arrangements—that is, simply the word processing facilities and everything we needed to start compiling the report, to identify for me the various clusters and who and which departments were involved, to arrange for meetings to take place. It was really the administration of the logistics. I must say I found that group extremely helpful. One of the decisions which I wished to implement immediately was to set up this review at a separate location so it would be distanced from the executive government, because it was intended to be an independent review. The minister had, in fact, stressed to me that he wished it to be a candid review—which it was. The team was very helpful in that regard and there was some office space found. I do not know the name of the building actually, but it is around where the Remuneration Tribunal is, which I am familiar with. We set up shop. That all took place within about 24 hours. We had very little time. Telephone services were installed and then we began the series of interviews. I think in my report I indicated I had met with about 100 people.

Senator LUNDY—Yes, it is recorded in the report. In terms of all of those logistics, was that handled and organised by the Department of Finance and Administration?

Mr Humphry—Yes.

Senator LUNDY—In terms of the timing, it was pretty obvious that it was a pretty tight time frame for this committee. Can you just give us a brief outline of the time frame as you experienced it in conducting the review.

Mr Humphry—Broadly it fell to a period in which the most time consuming amount of work was spread evenly between meeting with people and then the preparation of the report. I already had an outline for the actual structure of that report in terms of how it might be presented—I had previously completed another report for government and so I adopted a similar approach. So we were able to set the templates of how we would approach the issue. Then the interviews began. They were held by me coming to Canberra where there were Canberra officers and meeting with large numbers of people. To assist me, we initially tried to meet people on their own home ground, but the logistics were just going to beat us. So in the

end people were kind enough to come and meet with me in the offices where we were located. I conducted a large number of interviews in Sydney. I did a large number of interviews by telephone. The idea was simply to get access to the widest possible range of organisations.

What I was looking for was the experiences to date so I could correctly gauge, or assess as accurately as I could, the state of affairs. Remember, the terms of reference for this tender were not about an audit of the past. It was really about assessment of the risk profiles for the future. That was really what I was trying to focus on. So, having conducted those interviews of people who had been through the experience, who included the Office of Asset Sales, and those prospective agencies, I was then in a position to form my views. The views were formed as they went along and then strengthened. The evidence that was provided to me was rather overwhelming; there was virtually a consistency of view that came across right across the board. Having done that, we set about drafting the report. As you know, with report drafting you go through a series of issues and it was quite time consuming. That was a lot of time. We were aiming to try to complete the report by the new year.

Senator LUNDY—When did you actually deliver the report to the minister's office?

Mr Humphry—I think it was on 28 December.

Senator LUNDY—Was it delivered in draft form or as a final? Quite often, reports to government—

Mr Humphry—No, it was a final.

Senator LUNDY—So there were no modifications, post that delivery date?

Mr Humphry—No, it was presented as the final, complete report.

Senator LUNDY—On the issue of consultations that occurred, in your report you have listed interviews conducted and also submissions received. I would like to gauge to what extent you met with people outside of those two references contained in the report, particularly small businesses who are involved or would like to be involved with providing IT services to government. Is this extensive or are there more consultations that are not recorded?

Mr Humphry—No, it is extensive. The industry association represented the interests of those smaller suppliers of services. I was quite happy to accept that.

Senator LUNDY—So between AEEMA and the AIIA you felt that you had had the interests of the individual companies?

Mr Humphry—Yes. I did meet with some of the large service suppliers, the ESPs as well. That was very useful. I have to say that all parties cooperated fully with me. It was an issue, as you all know, which generated a lot of heat and emotion. There was a fair bit of saying to be said. I was looking for the underlying risks because I was really concerned about, particularly in the case of Centrelink, the larger programs that were coming up and what would happen to them if they followed the pattern of the past. It is important to realise that what was taking place with this initiative was, if not a world first, certainly one of the largest of its type of outsourcing that

might have been attempted anywhere. There was a lot of experience to be gained in the process. That came through to me in talking to some of the initial organisations that went through the process. It was very important for me to gather how people perceived what had happened and where they saw the risks in terms of the future. As we went, some side issues or other issues arose which I also tried to address because the terms of reference permitted me to address those.

Senator LUNDY—In terms of the magnitude of this program, it became very clear some time ago—and I know you would have perused some of the *Hansards* on this issue—that the government had not consulted or looked to international examples. That is on the record by their own admission. They had not investigated comparatively large IT outsourcing initiatives around the world. I want to move to some of your subjective views and your qualitative assessment of the report. I invite you to reflect broadly in the area that you are now discussing about the degree of responsibility imparted by the government in the initial implementation of this project.

Mr Humphry—As my report points out, this is an initiative that had been in place for a fairly long period of time and, because of the lack of progress, which as I indicated appeared to arise from inertia, the government took the decision, as I determined it, to take the necessary steps to bring this issue on and force the pace. My own view is that that was probably necessary in the initial stages to begin the process. The issue for me was not so much in whether that was a correct or otherwise process; my concern revolved around whether the necessary timing was being provided to permit all of the parties on all of the functions to address all of the issues which were needed before implementation took place.

I think there is a misconception, commonly held, that IT outsourcing is really about the letting of contracts and the setting of the commercial arrangement. The problem is that it is not about that. It is about the management of human resources and the placement of the way in which the organisation will function. This is not a contract to buy a bag of barley; this is a contract for a partnership that might last a decade, so the relationship that needs to be built is one that will be enduring. In speaking to many of the service providers they made the point to me—and it is valid because it is a similar issue and experiences have been found in the private sector—that even before you get around to contractual arrangements you need to establish whether or not the partnership is compatible. It is a very significant and most important issue.

I am not suggesting for a moment that the process did not provide for that activity to take place. It is just a question of whether the quantum was sufficient to allow the successful implementation of the program. Some of those agencies which had gone through the process were still sorting out difficulties which had not been foreseen perhaps even a year after the arrangement had been put in place. When I asked those agencies whether they were displeased, they said, 'It was a hard process and we think the timetable was very hard, perhaps too hard.' But none of them wished to return to the previous situation. They pointed out to me the advantages that were beginning to accrue from outsourcing. That is really what I was trying to do: to distinguish the policy—which, as I understand it, is supported in any event by both major parties—from the difficulties and processes involved in the implementation.

This is an extraordinarily sensitive and difficult area that you are dealing with. Large commercial organisations went through this process and there have been instances of many failures. Some of them have been successful. The ones that have been successful have put their

homework and time into the process. Some of the agencies, for example, pointed out how they had reorganised themselves in the process. They had redefined their information requirements; they had documented it and then they went through a process of setting up an implementation team.

Not only was there the issue of cultural change for people who were being taken out of the department and having to go through a change of employment; there was the method in which that was done. Whether they were separated and whether offers of redundancy were made, that impacted significantly on loss of skills. Further, the ESP itself—if they were not experienced in providing services to government—had to go through cultural changes. So it was a very complex process—more so, I think, than can be assessed from the notion that you just let a contract for an outsourcing arrangement for IT. It is probably one of the most difficult things to implement.

Senator LUNDY—And you acknowledge that there were plenty of international examples and case studies available demonstrating the complexities?

Mr Humphry—There are examples of that; there are examples of success. It is really about how much effort you are prepared to put into the preparation and process.

Senator LUNDY—You mentioned the benefits of agencies and departments going through an exercise in benchmarking their requirements in a formal way and the assistance that that can provide in them just assessing where efficiencies can be found. Had the agencies and departments been permitted to conduct such a benchmarking exercise before the preparation and evaluation of the tender processes, do you think that would have made this whole process easier to deal with?

Mr Humphry—I am not certain that they were prevented from doing so. My point was that there was insufficient time provided for that process to take effect. It was not a question of whether it was done but whether there was sufficient quantum. I think the sheer scale of what was being undertaken was perhaps not fully understood and that is why it led to my observations about the understanding of departments' business. It was very easy to lose sight of the fact that departments of state do not exist to run IT systems: they exist for purposes of discharging legislation and implementing government policy. These are tools. I think, in a sense, this process became such a significant issue that, for some departments, it disrupted their day to day operations.

The key interest I had was in identifying risks. Again, I was not trying to duplicate the Auditor-General's excellent report; I was trying to say, 'Building on that, do we proceed now in the way we have in the past, or do we pause and take stock? The answer is clearly to do the latter and, in order to do that, what should we do?' Fortunately, the passage of legislation had empowered, through the various legislation, the departmental heads and boards to be responsible. I believe very deeply that that is a significant issue of accountability; they should have the authority to implement these programs and be accountable.

I thought that it was fortuitous that those legislative changes had been made, and that led me into making those recommendations that I did. I felt that it was necessary to have some form of central kick-start and that, having achieved that, this was the better way to go forward,

particularly given that there were some very significant programs that were ready to proceed to outsourcing that needed extraordinarily close and sensitive management. It was important to me to bring out the issues and that is why I commissioned the Michael Reardon report to give some guidance to how and why people should approach this process.

Senator LUNDY—I have one final group of questions before I hand over to my colleagues. Recommendation 4 states:

When current IT outsourcing contracts expire, there is little benefit in mandating that agencies adhere to their existing groups. Within the overall government policy to outsource, agencies should exercise their own discretion on how to approach re-tendering or contract renewal.

In the context of that recommendation, I want to ask you, again in terms of the implementation and risk and scope of your inquiry, what your thoughts are about the asset free status that those agencies and departments will find themselves in at the termination of the current five-year contracts, particularly given that the Auditor-General highlighted that specifically as being a significant risk that the Commonwealth would have to deal with and address at that final point. In fact, Mr Humphry, we heard evidence from OASITO itself that a feature of this program was to encourage these contracts to become perpetual—to stay in place forever—hence this issue of the assets being transferred effectively to the vendor being of no consequence to the government. I ask you to comment on that in light of your recommendation that sticking with these contracts is obviously not necessarily in the best interests of the Commonwealth. How can you measure that up against what was obviously part of the government's policy to perpetuate these contracts?

Mr Humphry—In answering that question, one of the issues that needs to be borne in mind is that I believe government is an extraordinarily dynamic process, and agencies, through their administrative arrangements orders, can take on and shed functions which will materially impact on these contracts over time—the actual functionality will change. In fact, one of the issues that I focused on when I was considering risk was the dynamic nature of change of legislation and what that brings with it in terms of requirements. It seemed to me that whatever arrangement was put in place really required the maximum flexibility because, at the end of the day, it was essential that the agency be in a position to choose the best outcome. That may not necessarily be the best cost outcome, because one of the concerns I have is that there has been a tremendous focus on saving some cost when, in fact, outsourcing is really about accessing broader levels of technology and having broader access to skills. In fact, that is one of the benefits that has already accrued to some agencies. I would like to see the most flexible arrangement, and that really does entail the agencies being able to make up their minds unfettered by commitments which might hang over from the past.

Senator LUNDY—Do you think the loss of their IT assets, as part of their contract, is likely to put a constraining factor on their choices in the future?

Mr Humphry—It is very hard to say that that would necessarily do so. Hardware has a finite life, and so does software—variable, but there it is. It may well be that one can make a transition to another form of hardware without having to lose a great deal. Putting mainframes in departments—I do not think these days it would necessarily constrain them if they lost that piece of hardware. Normally there is a universality about the way in which hardware is allocated. Agencies, certainly in the private sector, can move from one to another manufacturer

or hardware configuration. In fact, technology itself and the dynamic nature of it, I think, probably dictates that the sorts of configurations we are used to working with now probably will not exist in the future. I think it is almost impossible to say that it will necessarily constrain them. All I could suggest to you is that the greatest possible flexibility should be the criterion that would apply.

Senator GIBSON—Mr Humphry, you just mentioned before that outsourcing allows entities to get access to scarce skills. Isn't it true that IT outsourcing is a very commonplace thing in both the private and, more recently, in the public sector economies here in Australia and also globally?

Mr Humphry—Outsourcing is, I think, generally viewed as an efficient way of using resources. I do not think that any stage during the conduct of this inquiry issues were raised which really put at risk the policy objective. In fact, my understanding is that it is supported by both major parties. In fact, the initiative began with decisions by the former government. It is something which has been carried through over the last many years. The issue with outsourcing is more to do with how and what model you might apply. I do not think it would be true to say in the private sector that whole outsourcing—that is, using single suppliers—is necessarily the way things will go. There are many instances where it is. I suppose I am trying to indicate to you that outsourcing is a very individual thing and individual agencies need to make up their mind as to what is the best mix. So it is a tailored thing.

If I had a message that I would like to leave the committee with, it would be that this is an extraordinarily complex area and requires careful consideration. It is not something that can be rushed. I think the biggest problem here has not been the lack of willingness of people to try to implement the policy, but the difficulties associated with simply meeting time frames which were very tight. The essence of this is about giving people both the authority and maximum accountability and providing adequate time frames.

Senator GIBSON—You have emphasised several times the difficulty of making these changes, if you like, in IT in any organisation. My own commercial experience, before coming into the Senate, as chief executive of a couple of reasonably sized organisations and having fingers burnt by trying to make IT changes suggests to me that it always has been quite a difficult area because a lot of managers do not understand the technology that is going on. They have got to rely on delegating that to others and those resources are quite scarce. The point I want to get to is that quite often, both in the private sector and in government entities, after embarking on a change in IT programs, a review is done and a change of direction is quite common because it is difficult to foresee exactly where you are going at the start of, say, a five-year program. Is that true?

Mr Humphry—Yes, one would like to think that programs of this size would be kept continually under review because of the significant implications of them, whether they are successful or otherwise. There are lessons to be learnt in this process and I think that that is one of the valuable things that has come out of this. I must stress that in the cases of all of the people that I met they were genuinely concerned to make sure that they were both implementing the policy as they had been required to do, and doing it in a way which would make sure that it did not in any way disrupt their ongoing responsibilities. I was impressed with the quality of the people from all sides that I spoke with.

Senator GIBSON—Based on your experience in both the public sector and the private sector, you would not be surprised from these sorts of reviews of a program like IT outsourcing that there would be a significant change in direction.

Mr Humphry—They are a standard tool of management. It is the way in which they are applied that is really the issue. It is very important that one takes account of not only the impact that it has on the culture of an organisation and the process of working through it, but also the many other issues, particularly in government, that have to be addressed in addition to that—privacy issues, issues of security, legislative requirements which might impact on that and the capacity to remain flexible. One of the points to make is that outsourcing essentially provides many benefits—of which cost may be one but may not necessarily be one. I am very keen to stress the fact that there are other advantages to outsourcing besides simply cost. Some government agencies have made the point to me that they are now able to access levels of technology which they could not have done from an internal point of view.

Senator GIBSON—Would you care to stress what other benefits you see? I understand that these skills are scarce.

Mr Humphry—Yes. For some agencies, one of the things that was not expected which occurred was that those computing staff whose areas had been outsourced went through a patch where there were some difficulties. But once they established a new career in an outsourced organisation, the feedback I received was that they were seeing that they had broader career opportunities opening up for them. So there were many levels of this process. I want to stress that outsourcing is not something that one does on faith. It is actually something which is a tool for selective use depending upon circumstances. I do not think one size fits all in this business.

Senator EGGLESTON—I would like to pick up on the points you made about savings and the fact that there may or may not be savings to be derived from outsourcing. I understand that your review did not seek to audit the level of savings which could be achieved through IT outsourcing contracts, but you did note that there was broad agreement that significant savings had been delivered in some areas. Could you comment further on that as well as your statement in your report that, ‘The divergence of opinion as to the precise quantum of savings is in part attributable to the lack of guidance in accounting standard 17.’

Mr Humphry—You are quite correct in saying that I did not conduct that type of audit because of the lack of time available and because others who were better qualified had already examined this area, particularly the Auditor-General. I think from memory his report had identified savings of some \$100 million to date—that was his assessment—which is smaller than that which might have been put about elsewhere, but to me at least it was still a substantial saving. The issue, though, was that in measurement there are factors which need to be weighed, and some of those require judgments. If you form different judgments, you can come up with significantly different results.

AAS17 deals with leases. The way in which the standard is structured you can have two forms: finance leases or operating leases. Operating leases simply take into account the costs as they go; however, finance leases take into account residual assets and liabilities. So depending upon the term in which you compare costs and depending on what lease you may have, you can come up with entirely different results. I also addressed the issue of savings when I was

discussing it with agencies. I wanted to see whether they could assess to what extent they had made savings. Some of them pointed out that they had incurred additional costs as a result of having to patch up the contract and the arrangements afterwards, and there were further extensions of some of the service levels that they had not previously thought they would need but now needed. So there was a lot of work that went on in actually settling down some of those earlier contracts, and there was a cost associated with that.

Many of them felt that it would be impossible to calculate the savings because the very requirement of data processing was itself undergoing change. If there were a change of legislation or change of the environment either the volumes or the types of processing might vary significantly. The environment is extremely flexible and to compare one with the other as time passed is an apples and pears situation. It is very hard to be able to come up with an exact quantum.

AAS17, in my view—and this is more a technical issue—is one that does need addressing, and there have been several papers prepared debating it, I believe, which may lead to changes. It will not only have impact in government; it will also have significant impact in the private sector. Most large corporate organisations would be impacted by it.

Senator EGGLESTON—But in a general sort of way, simply implying that there is a cost advantage in being able to outsource a contract or an IT service rather than having the capital equipment, the staff, the training and the servicing inhouse—

Mr Humphry—There may be, yes. As long as one remembers that it depends on the circumstances. It may not apply in every instance, but there may be financial benefit in not having to meet large humps of capital expenditure but, in fact, in having a spread through a form of contract. One person observed, ‘I no longer have to concern myself with the various issues of software that are coming out. That matter is automatically taken care of under the arrangement. I can focus now on strategic direction.’ To that person, that was one of the advantages. He said that it was hard to get there but, having got there, he certainly did not want to reverse the process. He was seeing that as a benefit.

There are also schools of thought on whether you outsource core businesses, core functions. There are issues which I do not think have been altogether considered. I raised the issue of privacy and the notion of whether one had adequate control. The point that was made to me was that it was not about physical custody but about control.

CHAIR—The proceedings will be suspended for a few minutes while a division is in progress.

Proceedings suspended from 6.22 p.m. to 6.28 p.m.

Senator EGGLESTON—Mr Humphry, you have mentioned that outsourcing means that rather than having insource IT equipment and so on there is now an industry developing, or potentially developing, out there for people to provide these outsourced services to the government. It means in effect that an outsourcing market has been established. Could you comment on whether the establishment of an outsourcing market in IT means that, in the devolved environment, agencies that are willing to outsource will be more able to do so because of the outsourcing initiative, and whether there is a source of work there for companies,

including Australian small and medium enterprises, that would not have been there in the absence of the initiative? What are the implications of that in terms of employment and capital investment?

Mr Humphry—I think it is a matter which could usefully be explored with the Office of Asset Sales because they had an industry development committee which met before the contracts were signed. My answer to your query would be that it would be, in a sense, both. By devolving to departmental heads and to boards—where appropriate under the legislation—there will be more direct contracts with individual smaller suppliers and particularly Australian suppliers. On the other hand, although there was a single contract provided under the cluster project, that led to subcontracts. The industry representation to me was that it would be more appropriate for Australian industry to operate under the former arrangement where there was a direct contracting arrangement. That was their view. I can only really report on what was said to me in that regard. My focus has been on risk rather than just on industry issues. I would encourage you to seek further information from the office; they have considerable experience in the preparation of their contracts.

Senator EGGLESTON—I have another question in relation to that. You also note in your report that there is now an acceptance of APS management—that the policy can provide an effective response to an agency's business needs. What role would you say the initiative plan played in developing this acceptance? Has this facilitated that?

Mr Humphry—I could not say that. I think that many of the agencies were at pains to point out to me that they had already taken their own initiative in outsourcing. In some instances they were being required to cease those arrangements and to recommit to a different outsourcing arrangement to which most of them objected. The point that was being made was that there was general acceptance. In fact, the extent to which the outsourcing arrangements actually existed amongst the various departments and agencies was surprising. I would say that almost all of them had some form of outsourcing in place. One departmental head was very concerned that the perceived difficulties that had arisen with the IT outsourcing might inhibit in some way other outsourcing arrangements for other than IT within their agencies. I am really trying to say that in every instance I would be fairly confident in saying that agencies perceived outsourcing as a valuable management tool and, as long as it was applied appropriately, it could lead to significant benefits.

Senator EGGLESTON—Thank you, that is very interesting. In other words, many agencies were already outsourcing in different areas.

Mr Humphry—Yes.

Senator EGGLESTON—Were any of them outsourcing IT?

Mr Humphry—Yes.

Senator EGGLESTON—Could you give us some examples?

Mr Humphry—To use a small example, take the Treasury. They had entered into an arrangement with Microsoft. It was something I did not know but, apparently, they use Excel—

a software package associated with Microsoft—more extensively than any other organisation in this country. That particular software company had entered into an arrangement with them for them to test new issues of software in return for benefits, which they found quite beneficial. They had also employed an ACT based company to provide IT outsource services. Issues arose with Sydney based organisations in government—they were concerned that they might wind up being forced to take Canberra service providers when in fact they wanted service providers which were placed within their own territory.

Senator EGGLESTON—Can you tell us when Treasury did begin its own outsourcing of IT?

Mr Humphry—I do not know whether I could, but I think it has been in place for some time.

Senator EGGLESTON—Some time being a decade?

Mr Humphry—Two or three years, maybe, but there could have been arrangements in place before that. It was quite pervasive, right throughout. It is not some sort of new science. It is something which many of them had started with things like internal audit, that was commonly used, but most of them had some form of outsourcing. Centrelink had outsourced contracts in place.

Senator EGGLESTON—In IT as well?

Mr Humphry—Yes.

Senator EGGLESTON—You said that some of them were concerned that they might be compromised in using their preferred provider through a government arranged system. What broader options would the proposed system of devolvement down to agencies mean in terms of selection of providers?

Mr Humphry—It comes down to the issue of control. The agency heads believe that if they had the final say over where the contract would go then at least they would be able to make sure that it fitted in with their specific requirements. It came down to whether being part of a broader cluster or group meant that they lost choice and many of them did feel that. They were concerned that it might lead to a situation in which they would not get adequate service. That was commonly expressed.

Senator EGGLESTON—Your report comments on the grouping of agencies. The grouping of agencies has been criticised in some quarters but your report also notes that grouping has served a useful purpose in enabling economies of scale and providing a coordinated approach to the market. Would you comment on the issue of grouping vis-à-vis the issue of choice for the committee's benefit?

Mr Humphry—I think this is not an area where one points the finger and says, 'People are at fault or not at fault'. This is the result of experience. I recall some years ago, when this initiative was being first contemplated—this was before the Office of Asset Sales took it over—that my own opinion was sought on the issue. It seemed to me that it was a sensible way in which to kick-start the process and to achieve economies of scale. It is not something in which one can

say, ‘This was wrong’, and ‘This was right’. It came out of experience and now that that experience has been gained it would clearly say to most agencies that although in theory they might gain a greater saving, or benefit from the economy, they also risk the benefits that apply from the individual contracted arrangements at the agency level where they are getting closer to the customer, so to speak. I think, on balance, in the light of experience, my report then said that it needed to move to a devolved basis to be the most effective.

Senator BUCKLAND—With respect to the submissions that are outlined in the report, are there any submissions that were not listed in that report, from individuals perhaps?

Mr Humphry—No. That is the comprehensive list of organisations which made submissions to me.

Senator BUCKLAND—Was the situation the same for interviews? Were there interviews that were not recorded by name in here?

Mr Humphry—No. That is a comprehensive list of the organisations that I spoke to.

Senator BUCKLAND—So that is the total interviews and total submissions?

Mr Humphry—Yes.

Senator BUCKLAND—Is there any way we can identify those submissions and those interviews that were made, that were not confidential? If the committee were minded to take submissions from these people, would it be easy to identify those we could get reports from quickly and those we may have to pursue further.

Mr Humphry—I do not think there would be any restrictions. If the committee wished to, I would encourage it to approach all of those people. I do not think any of them would see themselves as being exempted in any way from discussion in a public forum. My concern, as I was saying earlier, was that I wanted to get frank advice because I needed to form quickly an assessment of what level of risk applied for future. I was not concerned so much about the past except to the extent that it helped me in assessing for the future. It was really about whether we needed to make a change. I was asked earlier whether, periodically, a review should be conducted. The answer is yes and this mechanism was about trying to come to grips quickly with the issues. I was concerned to protect their confidentiality of views but they are free to express them. I certainly do not wish to restrict that. That is something that they can decide to do in front of this committee.

Senator LUNDY—I have some questions following on from the cost savings issue. You mentioned that you did not do any financial analysis at all and had a few other comments. What is your understanding about the distinction between the actual cost savings identified by the government and the real expenditure being experienced by agencies and departments on IT? How do the cost savings being touted by everyone from the Audit Office to the minister relate to real bottom line expenditure trends within agencies and departments on IT?

Mr Humphry—I think it would be impossible to accurately gauge that level of cost, because it resulted really in the way in which the business had to function. Many of the departments

were actually involved in out-of-hours work to address shortfalls. I do not even know whether there would have been even records kept of it. What I did receive were fairly strong views that it had involved them in additional costs, that it had taken a lot of additional staff time, and that there were issues that had not been anticipated that had been thrown up which required reclarification of the contract. Part of this was due to inexperience. There were expectations arising from the contract in some agencies which were not the same as those which the service provider was going to provide. It needed the process of both sides becoming aware of what expectations were on either side. All of that led to a fairly fluid situation. Also, some of the agencies experienced down time when they first went across—there were disruptions and so on—and that was quite disruptive to some agencies.

The general view I got—this is general, not specific—was that the process of implementation was very difficult. It was driven by timing that most agencies felt was too tight, and an awful lot of work had to go into creating the right environment as they went forward. But those that have been through the process and were about a year into it were beginning to start to see the process settling down. It simply really re-emphasises the fact that this is a complex process and that many of the parties that were involved had not experienced it before. I do not think anybody deliberately created this situation to make life difficult; it was just that it was the learning process. My concern about that was that to make sure that, in looking forward—remembering that I was looking at risk for the future—these situations would be addressed so as to minimise risk in the future. Some of the agencies that are still to go have risk profiles which do not permit down time; it would lead to severe disruption not just for government but for the community.

Senator LUNDY—You observe in your report on page 30:

It is clear that the overall control of the outsourcing process lies with OASITO and agencies have not been able to exercise the degree of control they believe they require in order to best manage their transition risks from in-house service provision to an outsourced ESP.

Can you tell me how you reached your subsequent first and second recommendations relating to the responsibilities of chief executives and boards under the FMA and CAC acts, and how you reached that observation?

Mr Humphry—I think it is a question of time. When the initiative began, those acts did not exist, and so the office of asset sales was charged by government to proceed to the implementation. Timetables were drawn up and away they went. They were trying to implement the policy as they saw it. The agencies felt—and the views that they put to me were quite strong—that they did not have adequate control over the process. They felt they were being put through a process which some of them said was bruising. At the end of it, they did not believe that they had the necessary control. I think that, in a sense, meant that they did not buy into the process. There was a feeling of disillusionment. And remember again, I am looking at risk. That is a key issue of risk, so I was concerned about that aspect in terms of going forward. Subsequently, that legislation was implemented so it seemed to me the logical step to now go to that level. As you know, the government did accept those recommendations, which I was very pleased with.

Senator LUNDY—Yes, it was an excellent result. Can you tell me about the feeling of disempowerment that you have described for agency heads? How did they actually get to

contribute to the outsourcing process? My understanding is that it was via a committee of the agencies involved in a given group or cluster. Can you shed some light on this?

Mr Humphry—The Office of Asset Sales and IT Outsourcing may be able to enlighten you on the process in detail—they were the ones running it—but they did involve the agencies. The agencies were not chopped right out of it but they were not part of the final consideration on industry development. Many of them did feel that, as a result of that, they were unable to have the final say in where that contract might go and whether that priority would meet their needs. It was a question of very different needs. Also, by being part of a cluster, some of them felt that their interests may have been subsumed in overriding other interests. So from a personal point of view it all came down to the fact that many of them felt that their ability to control the process was put at risk.

Senator LUNDY—Specifically on that, Mr Humphry, one of the features of the Audit Office report—which I know you used as a reference—was that it did not disaggregate within the groups and clusters, that you investigated the individual assessment on savings and the disruptions to the agencies involved within each cluster. Did you have a look, particularly within group 5 and cluster 3, as to what impacts there were, for example, on smaller agencies perhaps getting caught in this crush between the interests of the larger agencies in a given group? Did you go that far in your investigations?

Mr Humphry—No, not in the time I had available. I relied on the evidence that had been given to me and comments that had been made to me by the agencies. It was really a clash of cultures, a process which was not perceived to be meeting the needs of the individuals. It does not mean that they were not involved. A lot of them were more concerned about the timing and the pressures that put on them and the issue of how long it takes to implement these things. Unfortunately, it takes a lot longer than most people expect.

CHAIR—On that issue, Mr Humphry, was there any concern raised with you by agency heads that savings had originally been predetermined in respect to the outsourcing agenda and that calculations had been made in the out-years of the budget and therefore had been taken into account in the budget in terms of the allocation of funding to various agencies so that they were put under enormous pressure? Was there any concern that there was not really a capacity to make a judgment about the needs of the agency but more a need to meet the financial constraints that had been imposed upon various agencies by the allocation in the budget?

Mr Humphry—There were some comments about the fact that the money had been taken before the actual process had taken effect. I think many of them viewed the deduction as being another form of imposed savings on the costs of running an agency. They did not really connect it with IT and its implementation; it was seen as just another process.

CHAIR—But that would certainly be a substantially limiting factor on your choices in terms of the type of outsourcing you might engage in.

Mr Humphry—They saw the government as having made the decision to outsource; they were going to go through that process; they were part of a particular group, and the deduction as a savings was more to do with an aggregate of the budget process. Whether they had enough resources left and how that has been dealt with was not really something that they dwelt on.

They just said they had to deal with that environment as it was. Most of their concern was really about how to make sure that, while this process was going on—which was for them in some ways diverting resources—they could maintain their existing activities at whatever level and whatever function they were performing. It was really about how to manage them. It was the concern about having to deal with both processes at the same time.

Before we go on, Chairman, I would just like to correct something that was pointed out to me during our recess. I was asked a question—I think by Senator Lundy—about when the report had been submitted to the minister. I said 28 December. In fact, that was the date I signed the report. My understanding is that it was actually delivered to him on the 30 December. I just simply make the point for clarification.

Senator LUNDY—Thank you for that. Turning back to your first and second recommendations, the implication behind the first recommendation, particularly, is that the provisions of the financial management act and the CAC Act were not being followed, with OASITO having such a centralised control of the program. Did you reach that conclusion? Was it that conclusion that led to those first two recommendations?

Mr Humphry—Yes. What I was concerned about was that I felt that the centralised approach was not providing the optimum solution. For me, it was fortuitous, because, instead of having to recommend that such a process be put in place, the acts had already been passed. I do not think it was breach of the legislation; I think government is able in fact to arrange its affairs as it sees appropriate, but it did mean that there was a formal process in place which would easily lend itself to devolving of the management. OASITO was really concerned, as I understood it, with the process leading to the contract. I must not put words in their mouth—they will give their own evidence—but I think they saw the agencies as then having carriage of the implementation.

The concern that the agencies had was that, as they saw it, they were being driven through a process which may not have led to what they would have decided if they had been left to their own devices. I think in that process it created a tremendous amount of tension, which tended to obscure and put at risk what is in fact a very useful tool of management. Fortunately, I think the attitude still is amongst all agencies that outsourcing is a useful mechanism to achieve your objectives.

Senator LUNDY—Finally, Mr Humphrey, I have had advice also during the brief break we had that, according to the Archives Act, those submissions would in fact have had the status of a Commonwealth record. I would like to formally request that you provide to the committee the advice that you commissioned from the Australian Government Solicitor.

Mr Humphry—Senator Lundy, I do not have access to the advice you have received, but I have a formal writing from the Australian Government Solicitor. I think it needs to be clarified. These are technical matters that legal officers should clarify.

Senator LUNDY—I appreciate that, but it is also my understanding that it will be on your authority whether or not to release the Government Solicitor's advice to this committee, not the Government Solicitor's decision, so I am formally requesting you to do that.

Mr Humphry—I am happy to provide that advice. It will be the extract dealing with this issue.

CHAIR—I thought you had already indicated that you would do that.

Mr Humphry—Yes, I am happy to do that. I think that matter should be tested. That is a matter for you to test.

Senator WATSON—But you will seek advice first.

Mr Humphry—Yes, to clarify it. I am certainly not qualified to go against the AGS's opinion.

Senator WATSON—That is right, definitely.

Senator LUNDY—What is your understanding of the fundamental objectives of the IT outsourcing program initiated by the coalition?

Mr Humphry—It is to improve the capability of Commonwealth agencies to deliver programs to the community. That is how I see it. Agencies do not exist solely for IT processing. IT outsourcing is a tool. As long as it is kept in perspective, that is all it is. It is a mechanism. The IT outsourcing is effective only if it is to actually deliver an enhanced service. That is the criterion that I would be periodically reviewing it against. It is very easy, with a lot of these things, for the process to take over from the policy and that should not be subordinated. I was very pleased that the government took the decision to carry out this review and to accept what I thought were recommendations which were really designed to try to refine and improve on what was a process that was having some difficulties. I do need to stress that all of the parties that I spoke to were working earnestly to try to achieve what they perceive to be the objective, but some of them had different perspectives.

Senator WATSON—Congratulations on your report, Mr Humphry. Your report notes that, although IT outsourcing was encouraged in the early nineties, no outsourcing arrangements were entered into and that the agency inertia contributed to this lack of progress. Could you comment on the role of the initiative in breaking that inertia? Also, in terms of page 11 of your report you state:

The Initiative now sits in a context of a maturing—

And I would like you to concentrate on that word 'maturing'—

and evolving devolved management accountability regime. There now exists an environment within the Commonwealth that is more capable of managing complex and large projects. Indeed, there is now the potential for agencies to manage appropriate grouping strategies should they be required.

Were you a little disappointed about the lack of understanding by some journalists who commented about your report and this so-called evolving maturity that obviously was not there when this outsourcing program commenced? Therefore, the initiative would not have been successful had Mr Fahey's initiative not been initiated in the first place.

Mr Humphry—Like a lot of things, there is some reluctance to embrace new ideas. Although the initiative was taken by the former government, many agencies were perhaps reluctant to embrace it in the absence of any feeling that it was going to provide value to them. I think that applied to a lot of things. I have had debates and discussions with you in the past about accounting standards and the fact that everybody in government thought they were different than everybody else outside. However, there were some areas of government that, by definition and by the function that they performed, had developed those skills. The defence department had to enter into contractual arrangements, so it had built up some internal skills, but I do not think many agencies were experienced in it. Therefore, there was a tendency to continue on with what was seen as in-house processes.

This is really to do with culture and reflects on that aspect of it. I think that the initiative that was taken was aimed at overcoming the inertia. I have to say that I cannot think of a better way of actually beginning the process. So to me it was a good thing that it actually happened. It is all a question of how long you keep your foot on the accelerator. I think that it is important from time to time to pause and see whether or not the process is achieving the objectives that were set. Having listened to the agencies, I think that perhaps it had gone to the point where it was becoming disruptive. In other words, we have had a situation which was commendable to begin with and the process itself proceeded to the point where it really needed to be reviewed. Fortunately, during that time, because that legislation was introduced, there were specific accountabilities and responsibilities vested in boards and in agency heads. I think you now have both the legal structure and, in the light of experience, the capacity for agencies to share experiences to be able to now handle it in a more mature way. I am broadly optimistic about the future.

Senator WATSON—The second part of the question was about ‘maturing and evolving devolved management accountability concerns’. Were you a little disappointed that some of the reporting did not take your recommendations in the light of this maturity and this devolved management accountability regime? That is the context in which we had to read them. Some journalists did appear to miss that point. Did you get that impression or not?

Mr Humphry—I tended to take the view that the interest was in the experience to date and the activities that had taken place, whereas the focus of this report is really on forward risk. I do not know whether that has really been the focus of public reporting. I think it has really been more about the track record following on, as it did, from the Auditor-General’s report. My interest in what had taken place to date was really the platform that I needed to be able to make the assessments for the future. To me, that was a commendable step to take that assessment because, in the light of having now had the experience of this, if it had not been done, there was significant danger of major disruption to government services. So I am pleased that the government accepted the recommendations.

Senator WATSON—Thank you.

CHAIR—One of the points, Mr Humphry, that needs to be made is that the act devolving responsibility or authority to agency heads was passed in 1997. The Auditor-General, in evidence given before this committee at the last hearing, made a valid point that there is still a position within the Public Service that agency heads do not know what has devolved and what has not devolved to them in terms of their authority. Some issues are clearly being said to be

devolved to the agencies, such as industrial relations and workplace agreements, but in terms of IT outsourcing it was very much centrally controlled. So that in itself creates a great deal of confusion within the service. It is now 7 o'clock. I thank Mr Humphry for his evidence and for staying for the extra 15 minutes to make up for the time that we lost.

Proceedings suspended from 7.00 p.m. to 8.01 p.m.

BOWEN, Mr Phil, General Manager, Property Group, Department of Finance and Administration

BOXALL, Dr Peter John, Secretary (Chief Executive Officer), Department of Finance and Public Administration

CLOUT, Mr Jamie, Branch Manager, Financial Framework Group, Department of Finance and Public Administration

PRIOR, Mr Phillip, Branch Head, Budget Group, Department of Finance and Public Administration

MAKAY, Ms Trixie, Senior Director, Office of Asset Sales and IT Outsourcing

SMITH, Mr Ross, Chief Executive Officer, Office of Asset Sales and IT Outsourcing

YARRA, Mr David, Executive Director, Office of Asset Sales and IT Outsourcing

CHAIR—I welcome officers from the Department of Finance and Administration and from OASITO to the table. Dr Boxall or Mr Smith, do you want to make an opening statement?

Dr Boxall—No, thank you, Mr Chairman. We have made a submission and we are ready to answer questions.

Mr Smith—I do not want to make a statement per se, other than to advise you that we have brought with us tonight a range of documentation that the committee has requested, in terms of contracts arising out of the initiative and so on. We have reached a position with the relevant contractors to provide certain information to this committee at this time. We have identified, out of those documents, that information which is regarded as sensitive by the contractors; they are not to be disclosed publicly. We would like, once the committee has had a chance to review our information, to come back to the committee and talk about how we might then find ways to realise the rest of the information to the committee in camera, and what that actually means. So I just advise the committee that we have got with us tonight, to hand to the secretariat, the contacts with some exclusions and the reasons for those exclusions summarised.

CHAIR—Does that include the valuation reports, Mr Smith?

Mr Smith—No, it does not include the valuation reports.

CHAIR—From the point of view of the committee, we can take on board what you table here this evening. It is a matter for the committee to make a judgment of whether what you provide is satisfactory or not for its purposes, and what happens with that material from here on in. We will look at the material and then we will get back in touch with you about additional material or whether or not we want to take additional evidence in camera.

Mr Smith—Thank you.

Senator FAULKNER—Dr Boxall, would you or one of your officers—whatever you think is appropriate—briefly outline, for the benefit of the committee, the relationship from your perspective, DOFA’s relationship, with the Humphry review.

Dr Boxall—We basically have no different relationship with the Humphry review from that of any other agency, except that at the request of the government we supplied the secretariat and, as Mr Humphry outlined before dinner, we supplied a number of officers, separate office space and various logistics like telephones and what have you.

Senator FAULKNER—As you possibly appreciate, Dr Boxall—I might say this to OASITO as well—I may have missed some of Mr Humphry’s evidence because this committee was meeting while the Senate was sitting and it is hard to be in about 10 different places at once. I am afraid I did miss some of it, and one or two of my questions, therefore, may necessitate repeating some evidence that Mr Humphry has given. You will just have to bear with me from that point of view, Dr Boxall. There is just a limit to what one can do. Glued though I was to television to listen to all the pearls of wisdom from the committee, I want to be frank with the witnesses and indicate that some of the hearing I just was not able to listen to.

Dr Boxall—That is fine, Senator Faulkner.

Senator FAULKNER—I did appreciate the point that was made about the secretariat: could you or one of your officers be precise about the amount of administrative assistance that was given to Mr Humphry in terms of the number of officers and the nature of the secretarial support, et cetera?

Mr Clout—The department supplied six officers off-line who were located at Computer Associates House in premises that, I believe, were leased by the department for a period of six weeks, and it met the administrative costs of the secretariat and Mr Humphry.

Senator FAULKNER—Who headed that team of six officers, from a DOFA perspective? Was there a lead officer?

Mr Clout—Phillip Prior.

Senator FAULKNER—Did the Department of Finance and Administration advertise the review on its departmental web site?

Mr Prior—There was a separate webpage established for the Humphry review, but for logistical and communication speed reasons, the department’s address was used as a link through to that Humphry review home page.

Senator FAULKNER—What sort of link back to the department or to the minister was there via the officers of whom you were the team leader? What should I describe you as, Mr Prior?

Mr Prior—Team leader is fine, Senator.

Senator FAULKNER—As the team leader, what sort of interface would you have had with Dr Boxall or other senior members of the Department of Finance and Administration on an ongoing basis, if any?

Mr Prior—The secretariat that was set up for Mr Humphry was kept quite separate from the department. The team that I headed up reported to Mr Humphry, it did not report to the department as such, nor did it report through to the minister's office or the minister. The second part of your question related to updates and so on, I think. The secretariat provided its briefings and so on through to Mr Humphry in all cases.

Senator FAULKNER—I am surprised to hear that. As the team leader of the departmental officers supporting Mr Humphry in his review, you did not have any contact with the minister's office?

Mr Prior—We had contact with the minister's office, sorry. I thought you meant in terms of updating the content and so on of the review. We had contact with the minister's office.

Senator FAULKNER—And you would have had contact with the executive of the Department of Finance and Administration?

Mr Prior—As an individual who talks to other people, yes, but if you mean in the capacity as team leader conferring with the executive, no.

Senator FAULKNER—What sort of contact would you have had with the minister or minister's office?

Mr Prior—We would brief the minister's office from time to time—it was six weeks, so it could run to once a week, maybe it was twice a week in one week—about progress, including such things as submissions that had been called, that Mr Humphry was meeting certain individuals.

Senator FAULKNER—Mr Humphry was aware of this contact?

Mr Prior—Yes.

Senator FAULKNER—Did you discuss with Mr Humphry the nature of the communication you had with the minister's office?

Mr Prior—Yes.

Senator FAULKNER—A couple of times a week over a six-week period?

Mr Prior—Yes.

Senator FAULKNER—What sort of issues did that interface go to?

Mr Prior—They were process issues.

Senator FAULKNER—What sort of process issues?

Mr Prior—As I said before, that an ad had been placed in the paper calling for submissions, that interviews had been organised, that Mr Humphry would be in Canberra next week to conduct more interviews, that the work was progressing. It was those sorts of communications.

Senator FAULKNER—What about the nature of the review and how things were developing? Were those sorts of issues discussed?

Mr Prior—No.

Senator FAULKNER—Not with the executive of the Department of Finance and Administration?

Mr Prior—No.

Senator FAULKNER—Did you keep the executive of DOFA, or Dr Boxall, or whoever would be the appropriate senior official, in the loop in a similar way that the minister's office was consulted?

Mr Prior—Yes, in terms of process.

Senator FAULKNER—The same issues, or different issues?

Mr Prior—Same issues.

Senator FAULKNER—Identical?

Mr Prior—I am not sure what you mean by 'identical'.

Senator FAULKNER—I am trying to understand the nature of the communication between the department and the Humphry review, on the one hand, and the minister's office on the other.

Mr Prior—I am not trying to avoid the question. They were very similar, you could call them identical. They were similar sorts of issues in terms of process.

Senator FAULKNER—We might come back to some of this at a later stage. Has the department or Dr Boxall put a dollar value on the resources that it provided to the Humphry review—the cost to the department of its logistical assistance and administrative support to the Humphry review?

Mr Clout—The cost to the department for items like the fees for Mr Humphry, travel, advertising, printing et cetera was \$42,616. That does not include salaries of the staff that were seconded to the secretariat.

Senator FAULKNER—I appreciate that. Without bogging down the committee with the aggregation that you have probably got in your hand, could that be tabled at some point for the benefit of the committee?

Mr Clout—It includes a specific figure for fees for Mr Humphry, so I think we need to consult with him before releasing it.

Senator FAULKNER—That should be on the public record, anyway, shouldn't it?

Mr Clout—I would need to verify that.

Senator FAULKNER—You are dealing with someone who is very experienced. I think you would be aware of his role in relation to the Remuneration Tribunal. He would be right across this sort question and probably would not be at all surprised to be asked and he would have expected it to be provided. I hear what you are saying and I am not going to get bogged down in it. I am sure Mr Humphry would have no problem given his role in other areas of government, but you do that and let us know.

Mr Clout—Yes, Senator.

Senator FAULKNER—I must say that I understood Mr Humphry's evidence—from what I heard of Mr Humphry's evidence—to really suggest that there was little or perhaps no interface or relationship with the minister's office at all. My colleagues who have been sitting here at the table tonight longer than I might wish to progress this a little more, but that was certainly my feel for that amount of evidence that I heard. Have I misunderstood Mr Humphry's evidence?

Senator WATSON—Mr Humphry was speaking for himself.

Senator FAULKNER—No, I thought he was speaking for the review.

Senator LUNDY—That is exactly right.

CHAIR—We will leave it to the gentlemen at the other table to answer the questions.

Senator FAULKNER—I am qualifying everything I am saying here, because I did not hear all the evidence. I want to be frank with the officials because I have not heard it all; I have been in the chamber and otherwise engaged. What I did hear I thought was a fairly clear indication that there had been no interface relationship with the minister. I hear something now very different in relation to the review. I am trying to get to the bottom of it.

Dr Boxall—Senator, we would need to get hold of the transcript of what Mr Humphry said. We cannot just go from memory about what he said. You have asked us a question and we have answered it.

Senator LUNDY—Very clearly, Mr Humphry did answer a question from the committee which included reference to the secretariat provided by DOFA—that they did not have any relationship with the minister's office or the department. That was my very clear understanding.

You have just said that Mr Humphry was aware of the contact you were having, Mr Prior, with both the minister's office and the Department of Finance and Administration, so we have a conflict in the evidence we have already heard this evening.

Senator GIBSON—Not necessarily, Chair.

CHAIR—Order!

Senator LUNDY—I have been here all evening, and that is certainly my interpretation of what I have been hearing. I think Senator Faulkner made the point that it is very interesting evidence and we will obviously go back over the *Hansard* to identify precisely where the conflict is. I am interested in pursuing in depth, as is Senator Faulkner, the nature of the ongoing relationship and dialogue with both the executive of the Department of Finance and Administration and the minister's office by the secretariat provided for this independent review.

Senator FAULKNER—I heard Mr Humphry say over the broadcast, Mr Prior—and I do not want to put words in his mouth as he is not here—that he saw most of those who had made submissions to the review on his own. I think that was the evidence that was provided. I wondered whether you or other officers of the department had attended any of the meetings held by Mr Humphry, to provide support and assistance.

Mr Prior—Yes, I did attend some of those interviews.

Senator FAULKNER—I appreciate that. From what I heard Mr Humphry say, he did not say 'all'; he just said 'most'. Did you take minutes of those sorts of meetings?

Mr Prior—I took some notes but not minutes as such because Mr Humphry was taking the minutes, but I did take some personal notes.

Senator FAULKNER—Did you ever create documents in the form of a brief, submission or record of discussions, notes or reports on progress of the review to any officer in the Department of Finance and Administration about the review?

Mr Prior—Not that I am aware of. I do not remember doing that, so the answer is no.

Senator FAULKNER—Did you provide any such written documentation to the minister's office?

Mr Prior—No.

Senator FAULKNER—I see.

Mr Prior—Senator, can I just clarify that? When the Humphry review had been established and before he started doing his work, I did brief the minister to say that we would establish a secretariat in accordance with his instructions, that the secretariat would be housed in Computer Associates House and that it would support Mr Humphry. It was a procedural set-up

establishment that we do that in accordance with the minister's requirements. That was a brief to the minister, but once it started there was no such briefing to the minister's office.

Senator FAULKNER—Thank you for that, because I think that does somewhat clarify the situation. But let us be clear. So after Mr Humphry began his work on the review in terms of those he engaged with and sought counsel from and so forth, can you say to the committee that no documents were created by you or members of your team—in other words, the Department of Finance and Administration officials working to the Humphry review—and passed to either other areas of the Department of Finance and Administration or the minister's office?

Mr Prior—That is correct.

CHAIR—Can I just go back a step, Mr Prior. Mr Humphry in his evidence said that he had conducted a substantive number of interviews with the various interested parties, people who had made submissions, but he did say that some members of the secretariat had conducted interviews without him being present. Can you advise us as to how many interviews were conducted by members of the secretariat, whether you were present at all those interviews which Mr Humphry was not present at, what other members of the secretariat conducted the interviews, whether they have kept any records of those interviews and what they have done with those records?

Mr Prior—I would estimate that there were half a dozen interviews conducted without Mr Humphry, but it might have been nine—it is of that magnitude, from my memory. I was not present at all of them. One of the members was Maureen Gear, who conducted those interviews. I do not have the notes that she may have taken personally.

Senator FAULKNER—But there would be a record of interview or a record of discussions, wouldn't there? I assume you would have passed this on to Mr Humphry, wouldn't you?

Mr Prior—Discussions we had with Mr Humphry as a result of those interviews to pass information up to him in terms of—

Senator FAULKNER—Surely, notes would be taken, wouldn't they?

Mr Prior—Yes, I would imagine so.

Senator FAULKNER—One would assume that notes would be kept, wouldn't they? There are obligations in this regard, aren't there? Dr Boxall could help us with that.

Mr Prior—To the extent that we have got handwritten notes, I have got my handwritten notes. I cannot speak for another officer. You would have to ask them.

Senator FAULKNER—No, look; Senator Campbell has asked perfectly reasonable questions it seems to me about discussions, meetings or interviews that have taken place when Mr Humphry was not present and you have indicated to the committee that there were some of those.

Mr Prior—There were.

Senator FAULKNER—Obviously, if they occurred, given the nature of Mr Humphry's investigations and report here, one assumes that there would be a way of communicating the outcome of those discussions to Mr Humphry. That is a reasonable assumption for the committee to make, isn't it?

Mr Prior—That is right, yes.

Senator FAULKNER—I am trying to establish how that process worked. Did you depend on records of the meetings, formal minutes? How was this done? You would want to be accurately reflecting to Mr Humphry what the considerations were of those individuals you were talking to.

Dr Boxall—In effect, Senator Faulkner, because Mr Humphry could not attend all the meetings, according to Mr Prior roughly half a dozen were attended by Mr Prior or somebody else, and they took notes, no doubt, and then they briefed Mr Humphry. But they were doing that on behalf of Mr Humphry and so I would imagine that those notes would have the same status as the ones that Mr Humphry himself took.

Senator FAULKNER—I heard Mr Humphry—I did not hear all his evidence but I heard a reasonable amount of it—and I was left with the distinct impression that there was no interface with the minister's office, but now I find there was. There were regular briefings, two a week for six weeks.

Mr Prior—May I correct that, Senator? I did not say two a week for six weeks—just to make it clear.

Senator FAULKNER—What did you say, Mr Prior?

Mr Prior—I thought I said that it was possibly one a week some weeks, but some weeks it might have been two a week, but given it was six weeks, it was not—

Senator FAULKNER—I did mishear that, and I apologise. I thought you said two a week. One or two a week for six weeks is very different from none. I would like to understand more about the nature of this engagement with the minister's office: who it was with, what the nature of it was. It seems to me it could not all have been about the administrative and logistical arrangements, detailing those sorts of areas with the review, but I am eager to learn.

Mr Prior—Sorry, I am not sure of the question.

Senator FAULKNER—I would like you to explain to me the nature of those briefings to the minister's office. I assume you gave them, did you, Mr Prior?

Senator WATSON—This has already been answered.

Mr Prior—Certainly, I spoke to the minister's office.

Senator FAULKNER—Were you the only person briefing the minister's office?

Mr Prior—As team leader I was speaking to the minister's office. As far as I am aware I was the only person speaking to the minister's office.

Senator FAULKNER—And you were speaking on either one or two occasions for a period of six weeks?

Mr Prior—Correct.

Senator FAULKNER—So there are somewhere between six and 12 briefings that were made to the minister's office, unless my mathematics is wrong.

Mr Prior—In conversation, yes.

Senator FAULKNER—We are not known for our mathematics as politicians. What areas were canvassed? What was the nature of these briefings? What sort of information flow was there from the review to the minister's office?

Mr Prior—As I said before, Senator, it was information about Mr Humphry's movements, the progress of the review; that Mr Humphry would be in Canberra this week or next week; when should we deliver the report; where shall we deliver the report. It was about those process issues.

Senator FAULKNER—And you discussed all the matters with Mr Humphry that you raised with the minister's office, did you?

Mr Prior—He was aware that I had had that discussion with the minister's office, yes.

Senator FAULKNER—How was he aware?

Mr Prior—I told him.

Senator FAULKNER—After the event or before the event?

Mr Prior—Before and after.

Senator FAULKNER—So you had discussions after the event with Mr Humphry about matters relating to his review with the minister's office? You briefed Mr Humphry after the event about the nature of your communications with the minister's office? I find that quite extraordinary. Either we have got an arms-length and independent review or we have not, and obviously we have not.

Senator GIBSON—Through you, Mr Chairman, may I ask a question of Mr Prior? Isn't it true that you took your directions about what you were doing and the investigations that you were following through from Mr Humphry?

Mr Prior—Correct.

Senator GIBSON—Not from the minister's office?

Mr Prior—Not from the minister's office.

Senator GIBSON—Not from the department?

Mr Prior—Not from the department, Senator.

Senator GIBSON—And there were minor administrative matters which you informed the minister's office about?

Mr Prior—Correct, Senator.

Senator FAULKNER—Were there any major administrative matters or were they all minor, as Senator Gibson said?

Mr Prior—I would call them minor administrative matters. If we had to deliver a report, for instance, Senator, it was appropriate for me to find out, on Mr Humphry's behalf, where and when we should deliver that report.

Senator FAULKNER—But there was some email traffic too, wasn't there, Mr Prior?

Mr Prior—Not that I am aware of.

Senator FAULKNER—Are you sure of that?

Mr Prior—Not that I am aware of, Senator.

Senator FAULKNER—Not with the department?

Mr Prior—Not in regards to this matter, no.

Senator FAULKNER—Not with the minister's office?

Mr Prior—Not that I am aware of, Senator.

Senator FAULKNER—Would you be aware of it if it took place?

Mr Prior—Certainly I would be aware of it, but I am not aware of any email traffic in relation to this matter.

Senator LUNDY—Just on that, you say your discussions with the minister's office were a minor administrative process on logistical matters. How did you have those conversations? Did you front up in person?

Mr Prior—By telephone. I did meet with the minister's office in person at the first week of the review but after that it was by telephone, as I recall.

Senator LUNDY—Did you have any other personal meetings with the minister's office or anyone to do with the minister's office?

Mr Prior—It was a busy time. My memory serves me that I did not. But if someone had a camera and said I was there one day—it was a busy time. As I recall, it was that first event about setting it up but after that it was a telephone call to say, 'Be aware that Richard Humphry will be in town next week,' and that we were progressing, et cetera.

CHAIR—Did you have a specific contact in the minister's office or just with whoever answered the phone?

Mr Prior—No, I spoke to a specific person in the office.

CHAIR—Who was that person?

Mr Prior—Dino Di Janero. Sorry, Dino Georgiou.

Senator FAULKNER—Petro's brother.

CHAIR—And all shades in between.

Senator FAULKNER—I think I heard Mr Humphry say that, of his own volition, he basically returned submissions to those that had made submissions to the committee. I assume that was organised by the administrative support the department provided. Is that right?

Mr Prior—Correct.

Senator FAULKNER—Understanding that evidence about the submissions that were made to the review, are there other Commonwealth records of the review? The submissions, of course, have come and been returned to the submitters; I understand that. But were there other Commonwealth records created, apart from the report itself and the submissions, obviously?

Mr Prior—We have copies of the letters thanking people for their submissions. We have copies of letters advising people when their meetings with Mr Humphry would take place. We have copies of letters covering the return of submissions. We have copies of the review report cross-referenced to particular publicly available documents that support various aspects of the review.

Senator FAULKNER—Did DOFA seek advice on the application of the Archives Act to the records of the review?

Mr Prior—Mr Humphry asked the secretariat to seek legal advice, and that was sought.

Senator FAULKNER—Did that go to the application of the Archives Act?

Mr Prior—Yes, it did.

CHAIR—You said you have got copies of the publicly available documents.

Mr Prior—Those that are referred to in the report, yes.

CHAIR—Those are the ones that are listed in the report?

Mr Prior—That is right.

Senator FAULKNER—Could I ask what the nature of the advice was in relation to the application of the Archives Act?

Mr Prior—The AGS advised that they did not believe that the submissions were Commonwealth property and therefore they were not required to be retained for the purposes of the Archives Act.

Senator CONROY—Who provided that legal advice?

Mr Prior—The Australian Government Solicitor.

Senator FAULKNER—Do you know why they are not Commonwealth property?

Mr Prior—Do I know why?

Senator FAULKNER—Yes.

Mr Prior—No, I do not. Mr Humphry took legal advice.

Senator LUNDY—Can I just go back to a response you gave to a previous question about what records you actually do have presumably back within the department now? You mentioned letters?

Mr Prior—Copies of.

Senator LUNDY—Copies of letters. What about the actual reference documents and the sources of information used to assist you in compiling the report? Do you have a file that contains all of that material?

Mr Prior—We do not have a file of all that material, because it is so clearly referenced in the report and it is just a matter of going and pulling that, as required.

Senator LUNDY—But when you came back from your appointment to the Humphry review, you came back with a few boxes of bits and pieces and paperwork?

Mr Prior—That is right.

Senator LUNDY—Is that still in your office?

Mr Prior—In my office. Portions of it, like the annual report of a particular agency, are freely available on the Net, so there is no point in cluttering up my office with those documents. They are referenced, so they are easily available.

Senator LUNDY—What I am trying to establish is that there is a collection of papers per se that do relate to the inquiry.

Mr Prior—There is a folder containing those things that I have told you about.

Senator LUNDY—Did you ever get a request from Mr Humphry that those papers were in some way generated by, or the responsibility and in the possession of, the inquiry per se, and therefore should not go back to your office—that they should be dealt with in some other way?

Mr Prior—They are still the property of Mr Humphry. I have been on leave and I have been trying to catch up with my other work. It is just a matter of bundling them up and getting them to Mr Humphry's office.

Senator LUNDY—Are you saying you don't want them in your office either; you are saying, 'Take them back'?

Mr Prior—No, it is not a matter of not wanting them. They actually belong to Mr Humphry, so it is not appropriate for me to retain them.

Senator LUNDY—This is a very interesting point.

Senator FAULKNER—Wasn't the Humphry review commissioned by the Minister for Finance and Administration?

Mr Prior—Yes.

Senator FAULKNER—Didn't it report to the Minister for Finance and Administration?

Mr Prior—Yes.

Senator FAULKNER—Didn't it have a steering committee of chief executive officers or government agency chiefs?

Mr Prior—The minister's press release indicated that Mr Humphry did not report to a steering committee.

Senator FAULKNER—No, but it allowed for a steering committee of chief executive officers, didn't it?

Mr Prior—I am not trying to be evasive; I am just making sure of the language. It allowed for Mr Humphry to refer to particular senior members.

Senator FAULKNER—But it had secretariat and administrative support from the Department of Finance and Administration, including you, Mr Prior.

Mr Prior—That is correct.

Senator FAULKNER—Significant amounts of departmental funds—it is in the eye of the beholder whether the figures Mr Clout mentioned were significant or not, but certainly tens of thousands of dollars of departmental funds—were spent on the review, weren't they?

Mr Prior—As Mr Clout said yesterday.

Senator FAULKNER—Didn't it publish its report under the auspices of the Commonwealth government?

Mr Prior—No. Mr Humphry delivered his report to the minister.

Senator FAULKNER—Yes, and it was published under the auspices of the Commonwealth government. Who printed the report?

Mr Prior—The Commonwealth government.

Senator FAULKNER—Who paid for it?

Mr Prior—The Commonwealth government.

Senator FAULKNER—Exactly. Is anyone seriously going to tell me, in those circumstances, with all those facts on the table, that the documentation that relates to this particular review are not Commonwealth records? And Commonwealth records that are created for the review, collected by the review or related to the review are, of course, Commonwealth documents and they must be subject to the Archives Act, mustn't they? Can someone tell me that is wrong?

Dr Boxall—According to Mr Humphry's testimony and Mr Prior's testimony, the legal advice that he received from the Australian Government Solicitor is that the Archives Act does not apply.

Senator FAULKNER—Did the Department of Finance and Administration generate any separate legal advice on this question?

Dr Boxall—Yes.

Senator FAULKNER—Where did you generate it from?

Dr Boxall—We got legal advice from a private law firm.

Senator FAULKNER—Why did you get it, Dr Boxall? What was wrong with Mr Humphry's legal advice?

Dr Boxall—We were unaware that Mr Humphry had got legal advice.

Senator FAULKNER—That is fair enough. But why did you get it?

Dr Boxall—To answer the sorts of questions you are asking.

Senator FAULKNER—What did it say?

Dr Boxall—It said the same thing that the AGS legal advice said to Mr Humphry.

Senator FAULKNER—When did you commission your advice? I am sorry to hear that you are spending money getting legal advice just to be able to deal with questions I am asking at estimates committee, but I am flattered. You could come to me for the same advice for free. I could provide it. It might be different but I can assure you that it would cost you nothing.

Dr Boxall—I guess it all depends on the quality.

Senator FAULKNER—Indeed. In fact, we ought not talk about it after the advice that was given in relation to the Reith telecard matter, I suppose. You pay the price and you take your pick. But from me, you get it for free. Let me know when you commissioned it.

Dr Boxall—We received a letter from Senator George Campbell, the chairman, dated 23 January. My understanding is that, not long after the receipt of that letter, we commissioned legal advice. I do not know whether one of my staff has the exact date, but that gives you the general date.

CHAIR—You made the statement that it was the same legal advice. How do you know it was the same?

Dr Boxall—I made the statement that it gave the same advice.

CHAIR—How do you know it gave the same advice?

Dr Boxall—Because I have heard Mr Humphry's testimony, and my staff have advised me on the legal advice that we have received. It is apparently the same.

CHAIR—But Mr Humphry did not give any evidence here this evening as to the contents of the legal advice. He did not give any reason. He said he had legal advice from A-G's.

Dr Boxall—Mr Prior just indicated the nature of the legal advice in answer to a question from Senator Faulkner.

CHAIR—I was not aware that Mr Prior went into the detail of the legal advice. Perhaps he might not mind repeating it for the purposes of the committee. I do not think anyone else picked up the reasoning in the legal advice as to why A-G's believes this report and the documentation is not Commonwealth record.

Dr Boxall—Nobody is suggesting that Mr Prior gave the reasoning. We are saying that Mr Prior gave a summary of the legal advice, and that legal advice, I am advised, stacks up with the summary of the legal advice that we have received. In other words, the two pieces of legal advice are consistent.

CHAIR—We will not know that until we see the legal advice.

Dr Boxall—Do you have a question?

Senator LUNDY—Can you provide to the committee the legal advice you received?

Dr Boxall—We will check whether we can provide the legal advice. It is a matter of legal privilege, and we will check.

Senator CONROY—Who is it from?

Dr Boxall—Phillips Fox.

Senator CONROY—Was that the only one you sought?

Dr Boxall—Yes.

Senator CONROY—DOFA sought only the one piece of advice from Phillips Fox?

Dr Boxall—Correct.

Senator LUNDY—On a matter such as that, why is it that you went to an external law firm rather than ask the Australian Government Solicitor, given it related to an act of the Commonwealth parliament?

Dr Boxall—We have a legal panel in DOFA which has four law firms on it, the Australian Government Solicitor, Phillips Fox and two other private law firms. It is quite common in my department, consistent with the untying of the supply of legal advice, to consult various law firms. In this case the staff elected to seek the legal advice from Phillips Fox.

Senator LUNDY—Mr Prior, given that this issue of the return of submissions had been obviously contemplated and presumably discussed between you and Mr Humphry, had it ever been conveyed in conversation by you to either the department or the minister's office?

Mr Prior—I cannot recall having those sorts of discussions. But, equally, it was a busy time. Did I at some time possibly utter it? I may have, but I do not recall it as being an item on the agenda that I needed to discuss. It was a matter for Mr Humphry.

Senator LUNDY—In your experience during the course of the inquiry, was the question of the confidentiality of those submissions of particular concern to those making their submissions or to potential participants in the inquiry?

Mr Prior—The answer, in my view, is yes. Certainly, at the interviews that I was present at with Mr Humphry, he made it very clear that the confidentiality of a person's submission in both the written and spoken word was an important ingredient for him getting to what he saw as the necessary facts of the matter. So yes, that was the language of the conduct of the review.

Senator LUNDY—We can all understand why people were nervous about their submissions perhaps being given exposure. Was there some clarity in terms of your explanations to these participants in the inquiry about their submissions becoming part of the Commonwealth record per se or in the possession of the department and that, in fact, it was quite a long pathway between that and the public release of the submissions themselves?

Mr Prior—To my recollection, I was not party to any discussions with various individuals about that stream of thought—about whether it is a Commonwealth record. The language was more about Mr Humphry wanting to get as much relevant information as possible, and he constantly gave assurances that no-one would be identified, et cetera.

Senator LUNDY—The success of his inquiry was contingent upon not only there being no public disclosure of those submissions but also the Department of Finance and Administration never getting their hands on them?

Mr Prior—The Department of Finance and Administration getting their hands on the documents was not part of Mr Humphry's thinking.

Senator LUNDY—No, but that is what I am saying.

Mr Prior—He did not have a discussion with me—if that is what you are asking—about the department getting their hands on it.

Senator LUNDY—Was that an issue of concern for the people making submissions?

Mr Prior—Not that I am aware of. No-one ever said to me anything along the lines of, 'Don't let the department see this.' That was not the issue. As Mr Humphry put in his evidence, some people had 'private and confidential.' There were some elements of it that went to the nature of the business arrangement that they were involved in and so on.

Senator LUNDY—From your experience in the department, you would have been familiar, I presume, with the disclosure arrangements with respect to submissions made to parliamentary inquiries and even independent inquiries such as this. Were you not able to reassure them that provision of a submission could in fact be kept in confidence?

Mr Prior—With respect, it was Mr Humphry's review; it was not my review.

Senator LUNDY—But you were there to provide administrative advice and support.

Mr Prior—Mr Humphry asked me, when we had a discussion about returning submissions, 'What are the implications of returning these submissions that I choose to return?' I said, 'I think we should take legal advice to be sure.'

Senator FAULKNER—One thing we have got is the Department of Finance and Administration's submission to this inquiry. That is one good thing, I am sure you would agree. On reading page 4 of the submission—and, no doubt, Dr Boxall, you will tell me if I am being unfair—I got the distinct impression that DOFA was pretty desperate to distance itself as far as possible from this whole outsourcing fiasco by basically sheeting as much blame as it possibly could onto OASITO. I want to be absolutely fair about these things; am I correctly reading paragraphs 2 to 5 on page 4—basically dumping the blame onto OASITO?

Dr Boxall—Not at all, Senator. Not at all.

Senator FAULKNER—So, once the framework was established, DOFA has not been responsible for implementation of the strategy? Oh, but then OASITO were responsible for implementing the IT outsourcing initiative, and off it goes:

This includes providing strategic direction and leadership for the conduct of the initiative, development of the clusters, developing and applying the financial evaluation models, and management of the tender process.

DOFA does not have executive responsibility for the operations of OASITO, or OGIT before it—

and so on.

Dr Boxall—That is correct, and this is just factual. As a matter of fact, the Humphry report says, on page 24:

OASITO states in its annual report that it is an executive agency of the Finance and Administration Portfolio. It has operated separately from the Department of Finance and Administration since its establishment, and reports directly to the Minister for Finance and Administration.

Senator FAULKNER—But you are selling yourself short, I think, Dr Boxall. Didn't DOFA really—

Dr Boxall—Not at all, Senator Faulkner. As a matter of fact, the Auditor-General also says, on page 43:

Responsibility for developing the framework for implementation of the IT Initiative, and for overall management and coordination of tender processes, rested with OGIT until November 1997. Responsibility for the IT Initiative was then transferred to the Office of Asset Sales, which subsequently became the Office of Asset Sales and IT outsourcing ...

Indeed, the paragraphs you referred to in our submission I think are very fair in not trying to take any credit for what the office of asset sales has been doing in the case of the sale of assets and in the case of IT outsourcing.

Senator FAULKNER—I never thought until tonight that you had a sense of humour, Dr Boxall. I am most impressed. I actually do think you are underplaying your own hand in this. Isn't it true that DOFA actually championed the IT outsourcing initiative in the first place, if we are being frank about this?

Dr Boxall—The IT outsourcing, as you would know, Senator Faulkner, with this government, grew out of an election commitment they took in the 1996 election. There was a discussion in the ERC, in the budget process in 1996, and it was decided to commission a scoping study,

which was carried out by OGIT, the Office of Government and Information Technology, and DOFA assisted. Then the results of that scoping study were attached to a cabinet submission and formed the basis for the—

Senator FAULKNER—This is the 1997 cabinet submission?

Dr Boxall—Yes, that is right. The result, as you would know—

Senator FAULKNER—DOFA prepared that cabinet submission?

Dr Boxall—No. As a matter of fact, the Office of Government and Information Technology, with our assistance, prepared the submission. But it was our minister's—

Senator FAULKNER—You were joint authors?

Dr Boxall—No, not really. But we don't need to worry about that, I don't think.

Senator FAULKNER—I am trying to explore this issue of all the blame being dumped on the head of OGIT, now OASITO or by whatever acronym we care to call them. That is what I am trying to establish. It is true that the Department of Finance and Administration was a joint author, with the then OGIT, of the 1997 cabinet submission, isn't it? I recall that. I think we have talked about it before.

Dr Boxall—No. We assisted OGIT with the results of the scoping study which was attached to the cabinet submission. On the question of whether we helped draft the cabinet submission or not, I cannot remember, but basically the issue is that there is no question that we advised the minister in the lead-up to the preparation of the cabinet submission and the cabinet submission in cabinet. As you would know, Senator Faulkner, I am not at liberty to report on what advice we gave.

Senator FAULKNER—But we have talked here at a legislation committee previously, as you would know, Dr Boxall, of the overwhelming adverse views of 22 out of 24 of the departments and agencies that provided coordination comments to the 1997 cabinet submission. They were totally ignored, and it was the department of finance who recommended they be ignored. I think that is fair.

Dr Boxall—No, that is not fair, Senator Faulkner. As a matter of fact, I am sure we did not talk about that, because that is wrong. I am sure we would not have and I am sure that you and I would not have discussed something which is factually wrong.

Senator FAULKNER—There were 24 coordination comments. My figures might be wrong but I have got it clearly in my mind that we discussed this.

Dr Boxall—No. The reason why it is wrong is because DOFA, the Office of Asset Sales and anybody else do not coordinate on our own minister's cabinet submission. We do not have a situation where DOFA provides coordination comments on a cabinet submission taken by our minister to cabinet.

Senator FAULKNER—I said that the coordination comments were ignored. It is true that the Department of Finance and Administration suggested that the government go full steam ahead, regardless of the warnings of a huge number of agencies and the most senior Public Service advisers that the government had. That is just a fact. All I am trying to establish, Dr Boxall—

Dr Boxall—Excuse me, Mr Chairman, that is not a fact. What is more, I am not at liberty to tell you why it is not a fact, because I am not at liberty to disclose what information my department provided to the minister. That is not a fact; it is an assertion. I am not at liberty to explain to the committee why it is not the case, because I am not at liberty to disclose the advice.

Senator FAULKNER—Dr Boxall, you know about the leaked cabinet submission. This has been the worst kept secret in the history of the Howard government. But that cabinet submission that has been leaked comprehensively makes it absolutely clear that the Department of Finance and Administration supported the IT outsourcing initiative in the original form; that is, what was described as centrally mandated. That is a fact, Dr Boxall.

Dr Boxall—No, that is not a fact, Senator Faulkner. Unless you can produce something which shows me that is a fact, I cannot accept that it is a fact.

Senator FAULKNER—But everyone has seen this cabinet submission, Dr Boxall.

Dr Boxall—Can you refer me to the paragraph where the Department of Finance and Administration has said what you said—

Senator FAULKNER—Did the Department of Finance and Administration support the clustering approach?

Dr Boxall—Senator Faulkner, I cannot disclose what the Department of Finance and Administration reported. I cannot disclose whether the Department of Finance and Administration supported mandatory clustering, voluntary clustering or anything like that.

Senator FAULKNER—Didn't the Department of Finance and Administration estimate that the cross-portfolio savings would be about \$1 billion over seven years?

Dr Boxall—The Department of Finance and Administration did the costings for the budget measure, which is on page 160 of Budget Measures 1997-1998. The Department of Finance and Administration and the Office of Government Information Technology did the costings.

Senator FAULKNER—Wasn't it the Department of Finance and Administration which recommended to the cabinet that these savings be recovered from agencies in advance as an incentive to implement IT outsourcing?

Dr Boxall—Senator Faulkner, I cannot tell you what we may or may not have recommended. The fact is that the measure is for the public record. It is a government decision; this is a government decision. I have advised you and the committee that the Department of Finance and Administration was indeed involved in the costings.

Senator FAULKNER—It was the co-author of the initiative, wasn't it?

Dr Boxall—No, the Department of Finance and Administration and OGIT prepared the scoping study report, which is a cabinet document. Obviously, the costings in the scoping study report would have been part of the information upon which the government made its decision.

Senator FAULKNER—My point, Dr Boxall, is this: I think that the Department of Finance and Administration should step up to the plate and accept its share of the responsibility for this complete fiasco.

Senator EGGLESTON—Try some sense, Senator Faulkner.

CHAIR—Order!

Senator FAULKNER—All I am saying is that the whole approach of the Department of Finance and Administration has been to blame poor old OGIT and OASITO and accept none of the responsibility. I am not saying that the Department of Finance and Administration deserves all the blame, but I think it certainly deserves to wear its share of the responsibility for the complete failure of an initiative that the department championed, and I reckon that is reasonable.

Dr Boxall—No, the fact is, Mr Chairman, that that is not reasonable. The decision to engage to go ahead with this policy, which has been deemed a success by Mr Humphry, was a government decision. It was not the department of finance's decision. The department of finance provides advice, and I cannot tell you what we advised.

Senator FAULKNER—I do not want to get bogged down in page 4. I just wanted to defend OASITO from all the blame.

CHAIR—I am sure they are extremely pleased to hear it, Senator.

Senator FAULKNER—I wanted to get to page 5, but Senator Lundy has got something else, I think.

Senator LUNDY—I have a follow-up question about the change in administrative arrangements with respect to OGIT and OASITO. My recollection is that the IT outsourcing responsibilities were devolved from OGIT and moved into what is now OASITO in late 1997 following the implementation of the initiative arising out of the budget of that year. Can you tell me if, prior to the change in administrative arrangements where OASITO received their own chain of command, if you like, to the minister's office, in fact, OGIT operated through the department of finance in terms of administrative management?

Dr Boxall—OGIT reported directly to the minister in the same way as the Office of Asset Sales reported directly to the minister. Indeed, in 1996-97, both the Office of Asset Sales and the OGIT provided annual reports to the minister of finance under section 25(7) of the Public Service Act. There is no question whatsoever that the head of the Office of Asset Sales and the head of OGIT report directly to the minister and, indeed, the Office of Asset Sales does much

more than IT outsourcing. There is no discussion about taking credit for what the Office of Asset Sales does. We are simply not going to take credit.

Senator LUNDY—Can I draw your attention to the *Hansard* dated 28 November 2000, which was of an estimates committee hearing with, in fact, the Office of Asset Sales and IT Outsourcing, where I asked very specifically whose responsibility policy for this area was? I would just like to quote from that *Hansard*:

Would it be a job for perhaps the Department of Finance and Administration or, indeed, the minister's office to keep abreast of such trends—

And I was referring to such international trends in IT outsourcing—

given the insights such lessons could provide to the management, conduct and implementation of OASITO in this initiative.

Mr Smith from the Office of Asset Sales and IT Outsourcing replied after some preamble that it would essentially be a DOFA responsibility for outsourcing policy. Following another question when I asked:

Who does provide the policy advice to the minister on IT outsourcing if you are the implementation agency?

Mr Smith replied:

My understanding is that that would be DOFA's responsibility for outsourcing policy.

Seeing we have both of you at the table, Mr Smith, perhaps you would like to have first go at your comments there and say why you were in a position at that time to advise the estimates committee that it was, in fact, DOFA that was responsible for outsourcing policy and, in fact, OASITO was responsible merely for the implementation of the initiative.

Mr Smith—Senator, we have had this discussion on several occasions, and I remain firmly of the view that there was a government decision taken to conduct an IT outsourcing initiative, which was required to be implemented. My comments to you surrounding the issue at the time were, and they remain, only that we were required to implement the government's policy on IT outsourcing. I am absolutely responsible, as that *Hansard* will also record, for the tactics, the strategies and the implementation side of that, and I fully stand up to be accountable for that, but I did not set the policy framework for IT outsourcing initiatives.

Senator LUNDY—What made you say at that time when giving evidence, under privilege of this committee, that it was DOFA's responsibility? Is that because you believe it is DOFA's responsibility?

Mr Smith—I said, if you read the precursor, it is my understanding.

Senator LUNDY—You go on to clarify very succinctly that you believe it is DOFA's responsibility to set policy on IT outsourcing.

Mr Smith—What I am saying to you is that I do not have the responsibility to set policy for outsourcing for the government, nor do I have responsibility to make recommendations to government about what should and should not be outsourced in the government. I do not have that responsibility.

Senator FAULKNER—But some government departments, as you would appreciate, Mr Smith, do put their shoulder to the wheel on these sorts of things and provide support if they are concerned. There is nothing new in this. You indicate that. You know, don't you? Tell me: would you agree with my view that the Department of Finance and Administration was a strong advocate of IT outsourcing and put its shoulder to the wheel?

Mr Smith—I became responsible for this program in 1997, which was post the government's decision.

Senator FAULKNER—You do not know what the view of the then Department of Finance was?

Mr Smith—It is not really relevant what my view is.

Senator FAULKNER—I am asking you. Let us be the judge of that.

Mr Smith—It is a personal view and it is a matter for Dr Boxall to talk about those matters. It is not a matter for me to say whether—

Senator FAULKNER—You are an agency within the portfolio.

Mr Smith—I run an executive agency which reports direct to the minister.

Senator FAULKNER—I know that. I am saying that you are an agency within the portfolio, and you do not know what the view of the Department of Finance and Administration is on the IT outsourcing initiative.

Mr Smith—That is not what you said. That is not the question you asked.

Senator FAULKNER—Could you tell us what your understanding of the role of the Department of Finance and Administration has been in relation to the IT outsourcing initiative?

Mr Smith—What I can tell you on the other side of that is what I am responsible for—implementation of the policy.

Senator FAULKNER—I did not ask you that. I know what you are responsible for. I am asking what your understanding is of the department's role.

Mr Smith—I have answered this question about three times in this place. What I have said is that I do not have the charter to establish outsourcing policy within the government. It is a matter for Dr Boxall.

Senator FAULKNER—We know that. That is not an answer to my question.

Mr Smith—Then I go on to say that it is a matter for Dr Boxall to determine whether he or someone else has to do that. I certainly do not have the charter to establish outsourcing policy for the government, because that is not my charter.

Senator FAULKNER—But we have a turf war between the Department of Finance and Administration and OASITO.

Senator LUNDY—It is a hot potato.

Senator FAULKNER—No-one wants to own up and admit that in the early days both your executive agency, in a different name and form in OGIT, and the then Department of Finance put their shoulders to the wheel on this issue. But now, since then, we have a situation where the Department of Finance and Administration makes a submission to this committee. I refer you to page 4. Have a look at it in the fullness of time. It completely steps away from any responsibility and dumps it on OASITO.

Mr Smith—What the DOFA submission says is quite correct. It says that OASITO and its former version OGIT—that is not quite the connection, but the responsibility of the program was in OGIT and then went across to OASITO—is responsible for the implementation of the IT outsourcing project. That is what this says. We stand up to be accountable for that. Dr Boxall is not accountable for the implementation of the IT outsourcing initiative; I am.

Senator FAULKNER—I know that. What I am saying is something different. I am saying that the Department of Finance and Administration is distancing itself from the IT outsourcing initiative, and the way it is doing that is by dumping all the responsibility on to your executive agency. That is what I am saying.

Senator CONROY—We do not think that is fair.

Senator FAULKNER—I am not making a comment whether it is fair or not. I am just drawing it to your attention, Mr Smith, in case you had not seen it. I want to ask a question that arises out of paragraph 3 on page 5 about the new agency. Dr Boxall, I take you to this sentence in paragraph 3 on page 5 of your submission, which states:

DOFA also has established, at the request of the Government, a unit to provide advice to agencies, at their request and on a fee for service basis, in managing the transition of IT functions to the private sector.

Could someone tell me what the name of that unit is?

Dr Boxall—It is page 4, isn't it?

Senator FAULKNER—It is page 5 of mine, but it may be page 4 of yours. Page 4 we have talked about and I was quickly trying to move on. I thought we ran the risk of getting bogged down. It may be page 4 in your documentation.

Dr Boxall—Could you repeat the question, Senator Faulkner? I am aware of this issue. Can you just repeat your question, please?

Senator FAULKNER—On my page 4, but in a different place in yours the third paragraph under the subheading ‘Comments on Senate inquiry terms of reference (a)(i) strategic oversight and evaluation across agencies’, this sentence appears:

DOFA also has established, at the request of the Government, a unit to provide advice to agencies, at their request and on a fee for service basis, in managing the transition of IT functions to the private sector.

Its footnote indicates that it is a government response to the Humphry review. The first thing I asked was: have you got a name for that unit or has it got a name?

Dr Boxall—It is within the Commercial and Projects Branch of the Business Services Group.

Senator FAULKNER—Has it got a name or are you going to give it a name?

Dr Boxall—No, it is part of that branch.

Senator FAULKNER—Is it up and running now?

Dr Boxall—Yes.

Senator FAULKNER—Can you give me an indication of the resources that the unit attracts?

Dr Boxall—The government’s response to the Humphry report said that we would establish a unit on a fee for service basis and at the request of agencies. We will wait and see what sort of business we get. When we get the business and get the fee for service we will resource it.

Senator LUNDY—It could be a quiet year.

Senator FAULKNER—Is there any supporting documentation that you could point me to that might help me understand the role and functions and some more detail about the unit, Dr Boxall, without bogging the committee down?

Dr Boxall—It is captured in a nutshell in the response to the Humphry report, which you have got. The acting secretary sent a letter to all secretaries after the release of the government’s response to the Humphry review and indicated where they could call to start the ball rolling in the event that they wanted advice on this issue. The response of the government to the Humphry committee makes clear that the unit has a very specific role. Its role is to advise agencies at their request and on a fee for service basis in managing the transition of IT functions to the private sector. It is a very specific role that the government wants us to perform, and that is how the unit was established.

Senator FAULKNER—Does this actually mean that OASITO’s advisory role on IT outsourcing is going to be phased out after this transitional six-month period?

Dr Boxall—That is a separate issue. Indeed, the government response to recommendation 5 of the Humphry review says:

...a six-month transitional arrangement will be put in place whereby OASITO will provide assistance on IT outsourcing at the request of agency chief executives or boards.

It also goes on to say:

After the transitional period, agency chief executives or boards will obtain assistance at their discretion if required from a source of their own choosing.

So the answer is that the government does not propose that the Office of Asset Sales and IT Outsourcing will be providing this advice after the six-month period.

Senator FAULKNER—In terms of your forward planning, Mr Smith, what roles and functions will be left for OASITO after that six-month period?

Mr Smith—We have an asset sales program that we are pursuing. We also have the market testing and contracting out advisory function, and for the next six months the residual advisory role for IT outsourcing.

Senator FAULKNER—So what proportion of your business, if you like, would this role that is being phased out have been—up until the finalisation of the Humphry review?

Mr Smith—It depends on how you measure that, Senator.

Senator FAULKNER—I appreciate that; you measure it in a way that you are comfortable with.

Mr Smith—In terms of resources, we probably had around 18 people on IT outsourcing in an office of around 60. So it was about 30 per cent in terms of straight staffing. It does not quite equate in terms of complexity of work, but resources.

CHAIR—Mr Boxall, you quoted from a letter that has been sent to agency heads advising them of the establishment of this committee, or a group of people within DOFA. Can the committee have a copy of that letter?

Dr Boxall—Yes.

Senator FAULKNER—Which letter were you asking about?

CHAIR—The letter that was sent to agency heads advising them of the establishment of this group within DOFA.

Senator FAULKNER—I see, yes. Can I follow up your question, Mr Chairman? I think this may be a different letter; Dr Boxall; you may be able to assist me with this. On page 21 of the Humphry review, in the introduction—I know Senator Lundy wants to come back on this; this might assist us—in the fifth paragraph, there is an indication that there was a letter to the

review, I assume, but you might confirm that for me. This is the fifth paragraph, page 21, a letter from the Minister for Finance and Administration, that I assume is a letter to the review.

Dr Boxall—No, that is 1999.

Mr Smith—That is January 1999; that is over a year ago.

Senator FAULKNER—I am sorry; it is January 1999. Where is that letter going to?

Dr Boxall—Which letter?

Senator FAULKNER—Of course, it is not a letter to the review, that is right. Can you just explain to me: that letter goes from the minister to whom, or where?

Mr Yarra—In the audit report, there is reference to a letter from the Prime Minister of 22 December 1998. That letter referred to correspondence that would be forthcoming from the minister for finance in due course, and that letter was dated 20 January 1999. That dealt with some matters of detail in relation to the Prime Minister's letter which was at a high level.

Senator FAULKNER—Let us just be clear. The one that is mentioned that I am pointing to: to whom is that letter addressed?

Mr Yarra—That letter is addressed to all ministers.

Senator FAULKNER—It is not the same letter that Senator Lundy is referring to?

Mr Yarra—Absolutely not. The letter that was sent on 20 January 1999 was a follow-up from the Prime Minister's letter which clarified the government's policy. That letter from the Minister for Finance and Administration gave further detail to ministers about OASITO's role going forward in the implementation of the initiative.

Senator FAULKNER—So that is a letter to ministers?

Mr Yarra—Correct.

Senator FAULKNER—Is it possible to get a copy of that letter, the one referred to in paragraph 5 of the Humphry review?

Mr Yarra—We would have to take that up with our minister's office, but we should not see a problem.

Senator FAULKNER—I assume that letter in paragraph 5 was provided to Mr Humphry for his review. I assume it was, because it is mentioned, but I do not know.

Mr Yarra—He has referred to it but I cannot confirm it. I presume he has referred to it because it is part of the background for his developing an understanding of the history of the initiative to date.

Senator FAULKNER—Would we be able to clarify that from your office, Dr Boxall—whether that was provided to Mr Humphry for his review?

Dr Boxall—I have no idea.

Senator FAULKNER—I appreciate that.

Mr Smith—The key part of that letter, as Mr Yarra pointed out, related to the roles and responsibilities of OASITO, which Mr Humphry has published as appendix 10. Essentially, that was the core of the letter but we would have to check with the minister.

Senator FAULKNER—I would appreciate it if you would. What I was asking Mr Prior was: do you know whether that letter was provided in full to Mr Humphry for the review.

Mr Prior—My recollection is that the appendix to that letter was made available to our review. I do not recall the letter in full. I would have to check with Mr Humphry. We will take that on notice. I will check to make sure whether he did or did not, but certainly the appendix was what was relevant. What Mr Humphry was trying to say was that this appendix came from a letter that was sent by the minister for finance.

Senator FAULKNER—I hear what you say. If you can clarify that, that would be helpful. I would like to ask if that letter—appreciating the point you make about the appendix—can be made available.

Senator LUNDY—And the appendix.

Senator FAULKNER—The letter and attachments, if you like.

Mr Smith—That letter was generated out of the Office of Asset Sales and IT Outsourcing. I will take that on notice for you.

CHAIR—Senator Lundy, did you want to follow up an issue?

Senator LUNDY—Yes. In terms of the transition arrangements and the operation of OASITO for the next six months, a significant proportion of your human resources was derived from the use of consultants. What are your arrangements with the consultants that OASITO had previously on the books and who are you planning to retain over that period whilst you await calls for assistance from agencies and departments?

Mr Smith—The Shaw Pittman contract, as we have heard at another time and in another place, expired on 31 December and has not been renewed. We have a number of other contracts in place. We had a legal contract with Blake Dawson Waldron; we had a contract with a probity auditor, Stephen Marks—we have talked about that on a number of occasions. We had contracts with a number of accounting firms which are providing financial advice on financial models and so on. Most, if not all, of those contracts are in the process of being terminated. We expect to require some recourse to legal advice on issues as they might emerge. We are in discussion now with Blake Dawson Waldron to enter into an arrangement which will enable us to access their

expertise if required. But essentially we will not be maintaining any of the consultants, perhaps other than BDW. I think that is the current position.

Senator LUNDY—You will make more savings than the IT outsourcing program. Could you take on notice providing us with the full details of what those transition arrangements are, precisely which contracts you have terminated and when, and whether there are any ongoing liabilities in terms of contracts you are bound by since 31 December.

Mr Smith—To be honest, I do not think there are any that we are bound by, but we will check that. The only contract I believe we will need some access to is BDW. We are in negotiations with them now on a basis for them to provide ad hoc advice. That is just a matter of fact and I will confirm that for you.

Senator LUNDY—I would now like to turn to the issue of the provision of documentation that the committee has requested. Can you clarify for the committee what documentation you have actually turned up with to the hearing this evening and how that relates to the formal request from the committee to provide documentation?

Ms Makay—On 19 December, your letter requested three pieces of documentation: RFT documentation and any amendments to RFTs, evaluation report documentation and executed contracts to date. We provided you with an initial response on 24 January. What we are providing today is in response to the executed contract request. As Ross Smith already mentioned, we have brought a letter with copies of all of the contracts, with the exclusion of Health and the Health Insurance Commission. Those documents have blanking-out of commercially sensitive material. In support of that documentation, we have advice to you outlining the reasons for the extraction of that commercially sensitive material.

Senator LUNDY—Is it consistent with the request by the committee that the evaluation reports be provided?

Ms Makay—We have a piece of correspondence to provide to you tonight addressing the evaluation report request. It indicates that, at this stage, we are not intending to provide the evaluation reports.

Senator LUNDY—There are certain procedural orders relating to the operation of the parliament and the Senate that relate directly to the refusal of OASITO to provide the information the committee has requested, and I would like to take this opportunity to draw them to your attention. Procedural order 32 provides for the following with respect to public funds:

... there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the Parliament or its committees unless the Parliament has expressly provided otherwise.

There is no such record of a decision expressly providing otherwise in this case. We have advice, obviously, from the appropriate parliamentary department, indicating that this committee is entitled to that material and through the provisions in the standing orders of the committee we are able to make a determination to hold that information in confidence and receive it in camera. We would like to reiterate our request and ask you now to specifically

identify the points whereby you care to refute the provisions and the requirements of the Australian Parliament.

Mr Smith—Could I make a couple of comments about the statement that you made. We were invited by the committee to provide that information and the committee secretariat made it clear that there would be some information that may be sensitive, that may need to be blacked out and not be provided in the first instance. If we were going to pursue that strategy, we were to provide reasons for blacking out the information. At this stage we then went into a very lengthy consultation process with the contractors. The initial reaction from contractors was not to release any information. We spent the last two or three weeks discussing the issue with them, trying to persuade them that there is certain information that should absolutely be provided without question. We have worked very closely with them and we have made considerable progress.

We have now got to a point where we believe that we have got to quite sensitive commercial information. We are not saying to this committee that we are not prepared to provide that advice. The very clear message from industry is that they are concerned about the confidentiality of their commercially sensitive information, and I am absolutely mindful of the fact that this committee is acutely aware of that point as well. My letter to the committee secretariat says that we would like to provide this information and the contractors are saying they are happy to provide the information in camera, but they have asked us to discuss with the committee what in camera means. Despite the resolutions and undertakings, can this information ultimately be decided by the Senate? Regardless of in camera information, can that be released?

My understanding is it can be, but that is the sort of discussion we would like to have with the committee secretariat. It is our desire to provide the information that you requested, but we have to have regard to two things: firstly, the commercial confidentiality of the parties involved and the potential commercial damage and, secondly, the potential for litigation. Then there is the Commonwealth interest, and we would like to work with the committee to see how best we can provide that information to satisfy your legitimate requirements. That is where we are at. We are working very hard to provide you with all of the information that we possibly can and, hopefully, all of the information that is available.

Senator LUNDY—Mr Smith, I do not think I have made the point clear enough, because what you are suggesting to me is that the concerns expressed to you by participants in a government contract override parliamentary procedures and, effectively, the laws that govern the Australian parliament. You are suggesting to this committee that, in fact, your considerations in your negotiations and discussions with these private companies override the entitlements of parliamentary scrutiny of the expenditure of public moneys. That is completely unacceptable in terms of the position you put. Also, I would like to refute the implication in your response that in some way this committee has not been able to make clear to you exactly the provisions of in camera advice. You are no doubt aware that there is a great deal of scope and understanding by this Senate committee, and every other Senate committee, of the sensitivities of commercial-in-confidence.

Mr Smith—Which I acknowledge.

Senator LUNDY—I do not believe that you have acknowledged in your response due process with respect to commercial-in-confidence information or the due treatment of such information by this committee. You are continuing to refuse access to information and are somehow suggesting that you are in a position to negotiate with this committee about what information you choose to provide it. I suggest to you that that is utterly inappropriate and unacceptable to this committee.

Mr Smith—I will make a couple of comments. I disagree absolutely with your comment that I do not understand that you are highly sensitive to these issues, and I acknowledged that in my previous comment. I disagree that we have not taken appropriate steps to try to fulfil the requests of this committee. We have worked extraordinarily hard to provide this information—

Senator LUNDY—With due respect, Mr Smith, you have worked against the committee and you have refused, very specifically, to provide information to this committee. You have used all sorts of unreasonable arguments—including FOI and other ludicrous arguments, which have been adequately refuted formally by the committee to you—to prevent that information coming forth.

Mr Smith—I indicated to you just a moment ago that we are providing this committee with information that we think we can provide, and we are providing this committee with an explanation as to why we think we cannot provide the balance of that information. I thought it was appropriate that we provide the information and then the committee, as the chairman indicated at the outset, would form a view as to whether any of the information that has been excluded is in fact necessary for this committee's consideration. I thought that was the normal process. It is not our intention to deny this committee access to this information. We need to go through this process. If the committee feels that there is information that we have excluded that is relevant, we would be happy to sit down and talk that through, because we have bidders and contractors out there who are saying, 'We need to make sure our commercial interests are protected.'

Ms Makay—In your letter of 19 December you actually suggest that might be a course of action that we would be able to take.

CHAIR—I understand that. I have indicated that we accept it on that basis, without seeing what you have provided and without being able to make a judgment about whether or not we are satisfied with the explanations for the points that are blacked out. If we are not, then we will come back to you in respect of those matters.

Mr Smith—Thank you.

CHAIR—I want to raise two others matters with you which are relevant to this issue.

Senator LUNDY—I just want to follow up with one single point about the letter from OASITO to the committee with respect to that additional request for information. There was a concerted and deliberate effort by OASITO at that time to construct an argument about why they should not be required to provide any of the information, particularly the evaluation reports, that we requested. The subsequent position you have taken as an organisation was following the letter that was provided back to you. So let us not twist the story around here. The

course of events has led us to this position now where you are prepared to provide some information, obviously with clarification being provided by the committee, but that was not the starting point of OASITO.

Ms Makay—In our initial response on 24 January—I have found it now—we actually provided you with all the requests for tender and the amendments to requests for tender, certainly electronically and I think in hard copy as well.

Senator LUNDY—The information that was already generally publicly available.

Ms Makay—It was part of your request.

Senator LUNDY—Thank you.

Ms Makay—We also addressed your request for evaluation report information, and we received some following correspondence from you, to which we also have a response to table following these proceedings today. The third point was in relation to the executed contracts, and at that stage we advised you that we were in discussion and we could not furnish you with a response at that stage. Today we are in a position to be able to provide that response.

CHAIR—That is the issue I wanted to address, Ms Makay. It is in relation to the evaluation report. You have not provided any of the evaluation reports, as I understand from what you said, initially. Why haven't you provided those evaluation reports? On what grounds do you feel that they are not—

Mr Yarra—Senator, in our view the primary concern that we have about those evaluation reports is that they contain material which we consider would be commercially damaging to the Commonwealth's interests and commercially damaging to the bidder's interests in the process. That is a serious concern for us. Our process to date has been that we were invited by the committee to submit information, we have exercised a judgment and given you that judgment, and you have come back and said you disagree with that judgment. Nevertheless, we have exercised that judgment until the point that we are required by law to provide information. We believe the evaluation reports contain information that is commercially damaging to the Commonwealth and commercially damaging to vendors. We prefer, as our words in our letter say, not to release this information in such a way that it will get onto the public record.

CHAIR—As I understand in your letter, you said you had legal advice.

Mr Yarra—The role of the legal advice is in relation to the strict legal question of any issue that arises from the release of that information. Our overriding concern is a commercial concern, the commercial damage to the Commonwealth and to the vendors that may arise. We get legal advice of course which addresses the legal issues that may arise from taking that action. So we are not resting on the legal advice per se; our real concern is the commercial effect of the actions that we might take.

CHAIR—So you are really relying on your own judgment?

Mr Yarra—Correct.

CHAIR—And you are still saying you will not provide that material to the committee?

Mr Yarra—We are saying we prefer not to provide that information, if we provide it in such a way as it will get onto the public record. We think that is a bad outcome. We were prepared to talk to the committee and see how we can release that information to the committee in a way that it does not get onto the public record. We think it is commercially damaging on the public record.

Senator LUNDY—It has always been within your capacity to provide that information to the committee—

Mr Yarra—Correct.

Senator LUNDY—obviously with the appropriate request that it remains in camera. Why have you not provided it and accompanied the provision of that material with that request? Are you in a position to negotiate, do you think?

Mr Yarra—Senator, we are expressing a view to the committee, while we are allowed to express that view, that we think it is inappropriate to release this in such a way as it gets onto the public record. If we can be comforted that it can be released in a way by which it does not get onto the public record, we are prepared to release it—while we have that decision to make. While we are free to make that decision, this is our preference. If we are not free to make the decision because of an order or by force of law, that is a different question. While we are free to make this decision, our decision is that we prefer it not go onto the public record and we do nothing to cause that to happen, because of commercial damage. If we can talk about a way to release the information to the committee to help its consideration which does not lead it to it being on the public record, and we are convinced that that is the case, we are prepared to release the information.

CHAIR—Mr Yarra, can you give us some indication of the type of material that is contained in these evaluation reports that would be of potential damage to the Commonwealth?

Mr Yarra—Absolutely: details of individual bids by individual bidders, details of technical solutions that have been offered, comparative comments between bidders, pricing—a whole range of information which sits in one document, compares one bidder to another and makes a range of judgments about those bidders that is required in the evaluation process.

CHAIR—But how is that potentially damaging to the Commonwealth?

Mr Yarra—The Commonwealth is involved with processes—

Senator LUNDY—Haven't you given it to the lowest bidder?

Mr Yarra—We gave it to the bidder that offered best value for money.

Senator LUNDY—I was being sarcastic, Mr Yarra.

Mr Yarra—The commercial interests of the Commonwealth, in our view, are affected by the fact that we do business with the private sector all the time. The processes that we run require confidence from the private sector in the information they provide to us as part of their tender process. In our view, releasing information like this into the public arena wipes out competition in terms of procurement within the public sector.

Senator LUNDY—You are still making the assumption that it will go into the public arena.

Mr Yarra—Correct. We have not heard any information tonight, Senator—

Senator LUNDY—You have gone to great pains and we have gone to great pains to say that that is not necessarily the case—

Mr Yarra—Correct.

Senator LUNDY—because we understand those difficulties. The process is: we ask for it; you should provide it accompanied with a request that the committee treat this as in camera evidence. In light of all that has gone on, I suggest you will get a very sympathetic hearing from the committee with respect to this matter.

Mr Smith—Senator, the bidders are asking us the question, which we think we have to bring forward to this committee: if the information is taken in camera, is there any circumstance where that information can be made public, if it is chosen to be made public by this committee or the Senate?

Senator LUNDY—Of course it can make a decision.

Mr Smith—Sorry?

Senator LUNDY—The committee could in fact make that decision, yes.

Mr Smith—So on the one hand you are saying that you will treat the information confidentially. I am taking the view of the bidders who are expressing very strong views about this to us. You say you will take it in camera. By implication, that information is protected because it is in camera. What they are concerned about—which is my understanding—is that this committee and the Senate have the authority to decide to then take that information and put it in the public domain if they felt it was the right thing to do.

Senator LUNDY—If it was in the public interest. Can I suggest to you, Mr Smith, that that is a very valid reason.

Mr Smith—I am not questioning the validity of the reason. I am questioning—

Senator LUNDY—You are not in a position to; that is my point.

Mr Smith—I am not questioning it. I do not assume a position because I am not questioning it. What I am saying to you is that we have at the moment—and I repeat my earlier point—shifted the bidders and the contractors significantly from where they were two or three weeks ago.

Senator LUNDY—It is not their choice, Mr Smith. It is a matter of the Australian Public Service and the operation of the administration, and the parliament. It is not their will.

Mr Smith—I do think it is our responsibility to have regard to the commercial interests of the Commonwealth.

Senator LUNDY—Of course we will.

Mr Smith—And of the bidders. What we are trying to do is to orchestrate and create a situation where we can provide the information to this committee. That is our desire.

CHAIR—Mr Smith, why can't we treat these evaluation reports in the same way as you have treated the contracts in the initial instance? Why can't you deal with the evaluation reports in the same way you dealt with the contracts and provide them to the committee with those commercially sensitive elements that you believe should be kept in confidence blacked out, and then let the committee make a judgment as to whether or not what you have provided is adequate for our purposes or whether or not we need to go further than that?

Mr Smith—Theoretically, I agree that we could do that. We could certainly go through the evaluation reports and black out all that is commercially sensitive. My expectation would be that the vast majority of that document would be blacked out. It is the bringing together of all of the commercially sensitive information in one report. We can go through that document but my intuition, having regard to my 25 years of government contracting experience, is that that will be a very central combination of sensitive commercial information. But if that is your request, we could certainly go back and try and do the same with the evaluation reports as we have done with the contracts. We could try that.

CHAIR—I am suggesting that it may at least take us a step forward. We may well be back having the same argument in two or three weeks time. I do not know until we actually see what those evaluation reports look like and the type of material that is contained in them.

Mr Smith—We could certainly do that exercise for you. We will try and do that as quickly as we possibly can.

Senator LUNDY—Mr Smith, do you seriously believe that what can only be described as very sophisticated private corporations who bid for government work would not be aware of all of these issues associated with doing business with government and would understand, particularly with the sensitivities associated with this IT outsourcing program, that in fact there are due processes with regard to the parliament and public accountability and that their dealings with government would be scrutinised? Are you suggesting that they would not be aware of that or are not privy to that? Or have you somehow taken it upon yourselves to give them assurances above and beyond the requirements of this parliament?

Mr Smith—I would not presume to do that, Senator.

Senator LUNDY—I would hope not.

Mr Smith—The very people you are talking about as being sophisticated people in terms of their understanding of this process are the very people who are telling us they do not want this information released. It is not as if we have not gone out and spoken to them. Can I make a couple of general comments. Doing business with a government is complex and costly. We do not have, across many of the sectors, dozens of people knocking on our door to do business in terms of the available market.

Senator LUNDY—That is because of how you structured the contracts, with all due respect.

Mr Smith—Senator, you do not know how I constructed contracts for 20-odd years in Defence, for example. With respect, you do not understand that. The situation is that the level of competition is a fundamental underpinning for open and effective competition and value for money considerations in Commonwealth procurement, as it developed in the late 1980s, and it has stood the test of time very well. We are very mindful of the fact—and IT outsourcing is a good example—that, no matter at what level, there are not a large number of players in this game and there are other opportunities that people can pursue. They can pursue private sector opportunities; they do not have to do business with the government. We are very mindful of the fact that we are obligated to try to maximise competition to demonstrate value for money to this place and to other people who externally review Commonwealth agencies in doing business.

I genuinely and sincerely believe that this is an area which may in fact deter people from doing business with the government. If that is true, I do not believe we could sit here and demonstrate to you that we have achieved the absolute best value for money in all the transactions that we conduct. They are the sorts of issues that worry me. I am not saying that that will stop us from providing information; we just need to understand this better and we have taken the first important step in trying to divulge information to you.

Senator LUNDY—Reflecting on your comments—and I seriously take them on board—you seem to be suggesting that unless the Commonwealth government or the government per se provides an environment that actually suits the private sector, they will not tender for those jobs. I know very specifically that OASITO does not take the time to look at international trends and practices with respect to government procurement, but in other jurisdictions, very clearly where not only a contract is published but the assessment process is done in an open and public forum, that has not seemed to deter the private sector from wanting government contracts or from doing business with government. So why do you think it is such a sensitive issue here? Do you think Australia is such a terrible place that they would not want to do business with the Commonwealth government?

Mr Smith—If you think of some of the fundamental commercial arrangements that we enter into—the preferential pricing that we get, the most favoured customer pricing, the willingness for people to step up to liability caps that protect the Commonwealth's risk profile going forward—commercial entities will do that if they know that information is protected. If they thought that, by providing the Commonwealth with a preferential price arrangement, that was then going to have an adverse effect having regard to the other people that they do business with, logically, why would they offer us a preferential price next time, when all that has created

is a whole range of dissatisfied people who are saying, ‘Why aren’t you giving us the same deal?’

Those commercial issues are real. I am saying to you that we want to find the right construct here to satisfy the obligations that you have for us, and which we acknowledge as being legitimate. We are just trying to work through a process with this committee to provide as much information as we can. We believe that so far we have done the right thing. We have taken on board the chairman’s comment about the evaluation reports and we will comply with that as quickly as we possibly can. I take the chairman’s point as well that we may be having another discussion about this in two or three weeks time. Please do not misunderstand: we are desperately trying to provide this information to the committee as best we can.

Senator LUNDY—Thank you for that, Mr Smith. I think it is also worth making a final point that the way you describe how you actually attract business and the issues of liability and others facing private sectors doing dealings with government could, in fact, have the opposite impact from the one that you are hoping for. By identifying the issues in the way that you have, you create an environment where it is almost as if the Commonwealth is on the defensive and needs people to tender, where I would argue the opposite—that, in fact, it is highly desirable work, they are long-term contracts and it is something that the market desires. Your words turn the tables on that, and I think that that is contradictory to the public interest.

Mr Smith—I don’t agree with that. I do not agree with your assessment.

CHAIR—Mr Smith, does your standard RFT contain information that the parliament may want access to information that is in tenders? Do you advise potential tenderers that the parliament actually may want to know what is happening with public money?

Mr Yarra—The standard RFT is a document that deals with the process that we initiate with that RFT: tender rules, information about the opportunity, draft contracts, that sort of thing. I will have to take on notice whether the RFT then goes to the trouble of saying, ‘By the way, there are parliamentary implications or issues about this process, et cetera.’

CHAIR—Can you take that on notice?

Mr Yarra—Certainly.

CHAIR—Do you have a standard document that you use? Can we have a copy of that?

Mr Yarra—They are a bit difficult to carry, Senator, but we have provided them to the committee.

CHAIR—You have provided it perhaps to the committee secretariat?

Mr Yarra—Yes, and I am sure that on a quick reading you would pick it up pretty quickly.

Mr Smith—I think, Senator, to take your question one step further, I recall—but we will confirm—that in the draft contract we make a statement to the effect that we may be required

under the rules of parliament to provide information, legally, but we will check that for you. I think it is in our contracts rather than the RFTs, but we can confirm that for you.

Senator LUNDY—I would like to go back to Dr Boxall at the moment, to follow on from the discussion we had about the policy advice just briefly. In that *Hansard* excerpt that I referred to, it was very clear that OASITO was either under the impression or led to believe that someone in DOFA had some scope or capacity or responsibility for policy advice on the outsourcing initiative. For the record, are you going to refute it again here—I know you have previously—tonight?

Dr Boxall—Excuse me, Senator Lundy, what have I refuted previously?

Senator LUNDY—My understanding is that you have said on the record on more than one occasion that you do not have responsibility for policy advice on the IT outsourcing.

Dr Boxall—No, I do not recall saying that, but we can check the *Hansard*. Let me put on the record that we do not. The whole point about the submission that we have put in is that we give policy advice and that the policy is established, and then the office of asset sales implements it—that is the whole point. Of course we give policy advice, and I would be very surprised if the *Hansard* shows that I said anything different. What is more, we give this advice not just on IT outsourcing policy; we give it on all sorts of other outsourcing policy.

Senator LUNDY—I absolutely appreciate that clarification, because my understanding was that you were not accepting any responsibility for the actions of the government with respect to IT outsourcing, and that included who was providing them with policy advice.

Dr Boxall—No, that is not my position, Senator Lundy, and I—

Senator LUNDY—Okay, so you do provide policy advice?

Dr Boxall—Of course. That has always been the position, and that is clear from the submission. If we go to page 2 of the submission, the role of the Department of Finance and Administration—

Senator LUNDY—This was the submission we received late this afternoon?

Dr Boxall—No, we submitted it yesterday.

Senator LUNDY—OASITO's was this afternoon.

Dr Boxall—It says here clearly that we, with OGIT, advised the government on the framework to deliver the government's policy commitment—

Senator LUNDY—I am sorry, what was that, Dr Boxall?

Dr Boxall—I am referring to page 2 of the submission. I can read it out, if you like.

Senator LUNDY—I have got it here somewhere.

Dr Boxall—It is on page 2. Under ‘The role of the Department of Finance and Administration’ it says:

DOFA, with OGIT, advised the Government on the framework to deliver the Government’s policy commitment that expenditure on information technology would be reduced across the Commonwealth.

In accordance with DOFA’s responsibilities to assist the Government to achieve its broad budgetary objectives, and providing the Government and agencies with analysis, advice and estimates, DOFA, with OGIT, undertook the scoping study, evaluation and detailed costings of the savings to the Commonwealth budget that the Government would achieve through delivering the implementation strategy.

DOFA also provided advice at the request of OGIT, and then OASITO, on the financial evaluation methodology and data collection models used to determine the cost of providing IT infrastructure services in-house. DOFA also provided OASITO with advice on Competitive Neutrality issues.

It is clear that we provide advice and the office of asset sales implements. It is quite a usual dichotomy and there are other areas of government where that is the case—where there is an agency that specialises in the interpretation and implementation and another agency that specialises in giving the advice. So if you had that misunderstanding, I am very pleased to correct it. It has been pointed out to me that at Senate estimates I made a very clear statement. I said that I am not responsible for the implementation of the IT; that it is the province of the office of asset sales. That is exactly what Mr Smith said. There is simply no ambiguity here on this issue; none whatsoever.

Senator LUNDY—The issue of advice, particularly in relation to agencies and departments and the original budget deductions: on what basis did you calculate what those original deductions to agencies should be?

Dr Boxall—OGIT, working with the Department of Finance and Administration, had a rather comprehensive scoping study where they issued a number of questionnaires and issued requests for information that was sent to potential suppliers of 22 agencies. So it is a bit like a dummy run for an IT outsourcing exercise. The costs measured by the study represent approximately 95 per cent of total expenditure. In other words, it is very comprehensive and it is for agencies with running costs, budgets, above \$10 million. Basically, it covered the bulk of the IT expenditure across the budget sector, as it was called in those days.

As a result of those questionnaires, it was concluded that it would be relatively easy for agencies to outsource and achieve a certain level of savings. The government decided in the 1997 budget—and they have a measure which is written up in here—that what they would do would be to take the savings from the forward estimates of the various portfolios and hence the agencies within those portfolios. This, I might say, is a broad-brush approach to taking savings. But it is consistent with what used to happen before the introduction of accrual budgeting where there are often across-the-board savings initiatives, such as efficiency dividends and things like that. As far as my staff and I know, this is the most sophisticated and well researched across the board savings exercise that has been undertaken, and that is why the government, based on our advice, was able to make a decision which allocated the savings which are shown in the table on page 160 of the budget measures 1997-98 in such detail.

Senator LUNDY—When you made those assessments, I think it was described as an IT dividend at the time: is that appropriate terminology?

Dr Boxall—No, the title of the measure is ‘Efficiencies in whole of government information technology infrastructure’.

Senator LUNDY—Okay.

Senator CONROY—Do you mind if we call it—

Senator LUNDY—The IT budget reduction. I have a number of questions in relation to that calculation that you made. The first question I have was that at the point of making that decision and the government making those deductions, the timetable anticipated for the IT outsourcing program was confined to, by and large, at least being initiated in the majority of departments within that first financial year. Can you confirm to the committee that the original expectation was that the year that those budget deductions began, that is, in the fiscal year of 1997-98—

Dr Boxall—No. I can confirm that the deductions started in 1998-99, so that deductions were not in the budget year; they were in the outyears.

Senator LUNDY—Thank you. It was anticipated that in the year that the agency or department experienced those deductions they would, in fact, have an IT outsourcing contract in place so they could redeem the loss of those deductions from the savings that they were supposedly going to make under the IT outsourcing initiative. That was the general intention, wasn't it?

Dr Boxall—In general, the intention was that the savings would be deducted from the forward estimate based on the anticipated program timing of the initiative.

Senator LUNDY—So, in fact, the budget deductions were timed specifically in the outyears to coincide with the signing and implementation of an outsourced contract.

Dr Boxall—They tried to match them up.

Senator LUNDY—The result that we now know with the time blow-outs that were clearly identified in the Auditor-General's report and reflected upon, from memory, in the Humphry report exposed the fact that, because of those delays, many agencies and departments did not, in fact, have an IT outsourcing contract in place, despite having suffered not just perhaps one financial year's worth of deductions but in some cases two, and now with the changes to the program and the changes to the policy and the devolution of the outsourcing back to agencies, some may, in fact, not experience an opportunity to redeem those deductions by virtue of an IT outsourcing initiative. Isn't that the case?

Dr Boxall—It is the case that, because the program has not, in every instance, gone to the timing which was anticipated when the government made the decision, some agencies have had the savings docked from their forward estimates before they have had an opportunity to participate in the program. That is true. It is a statement of fact.

The issue is that what we have observed is that many agencies have begun to make certain savings themselves, even in anticipation of outsourcing, and have often been able to achieve the

savings anyway without having to outsource. Of course, they could probably achieve more savings by outsourcing—

Senator LUNDY—It depends whose financial methodology you use, I suggest, Dr Boxall.

Dr Boxall—I do not think it does, Senator Lundy, but I am sure you will ask questions on that.

Senator CONROY—I promise you I will.

Dr Boxall—The important point to make and the reason why I make this is that those savings are minimal. The judgment, on the receipt of the information through this very detailed scoping study, was that those savings are absolutely minimal and most agencies would have expected to get greater savings than that and those are savings which they would, in effect, keep and use for other activities. My own department is a good example. The savings that we have got through outsourcing, which we have demonstrated works very well—

Senator LUNDY—Is that your contract with IBM?

Dr Boxall—Both. IBM and CSC are well in excess of the savings which were docked from our forward estimates. Many other agencies would have had a similar experience.

Senator LUNDY—Notwithstanding those last issues which are almost by-products of bad timing, if you like, what is the department of finance's position with respect to those agencies who have not been able to redeem those savings through finding efficiencies in-house? Is that an issue of concern to Finance, or is there any mechanism by which you can, in fact, take it upon yourself to redeem those agencies for moneys deducted for a specific cause but where that cause has not been realised?

Dr Boxall—There is nothing to stop a minister at any time approaching the minister for finance and, through the budget process, with a new policy proposal, there is nothing to stop a minister coming up and saying, 'We can't cope. We need additional running costs.' The important point to keep in mind is that with these savings—which are very similar to efficiency dividends which governments have levied on departments across the board on a number of occasions before the introduction of accrual budget—it is the same across-the-board type of approach that has always been used until the introduction of accrual budget, and there is nothing to stop a minister bringing a proposal to ERC to, in effect, claw back the savings. As far as I know, there is no case where that has been done.

Let us move on to the new accrual budgeted framework where we no longer operate with these sorts of across-the-board instruments and we do it through pricing reviews. We are in the second year of a three-year pricing review program at the moment. When a pricing review is done between an agency and DOFA and is put to ERC—and hence to cabinet for agreement—we, of course, take account of all factors, including issues with respect to IT. The bottom line is that, as the secretary of the Department of Finance and Administration, I have yet to see a policy proposal asking to claw back these savings which were taken in the 1997-98 budget.

Senator LUNDY—On the issue of realising those agencies that have, in fact, had contracts put in place, I would like to hear your perspective on a very important issue, and that is the distinction between unit cost reductions and overall expenditure in relation to IT. I do believe it is an issue of some ambiguity. The implication and the information contained in the Audit Office report identifies conflicting financial methodologies on how savings have been calculated. Obviously the department of finance has one methodology and the Audit Office has suggested a different financial methodology.

Senator CONROY—That is right.

Senator LUNDY—The methodology adopted by the department of finance for the purposes of calculating the savings under this program: can you tell me whether or not those savings figures are relative at the point of signing the original contract—that is, the terms and conditions, scope and what is prescribed in the contract—or whether the savings identified under the methodology program relate to actual bottom line expenditure on IT within those agencies and departments compared with expenditure at the signing of the contract?

Dr Boxall—Senator Lundy, we are going to answer the question. We just need to clarify. You are not talking about the savings in here. Do you want us to address the supposed difference between the methodology advocated by the Auditor-General in this report and what is used to calculate savings and then announce a certain level of savings? Is that what it is?

Senator LUNDY—Yes. That is part of the question, but in acknowledging the differences in those two financial methodologies and the different savings outcomes calculated, I am interested in how that sits relative to the overall expenditure by different agencies in departments on IT.

Dr Boxall—I hand this to Mr Yarra, because the Office of Asset Sales, as part of the implementation programs, runs the costing models, and we will let him answer first and then see whether I can add anything useful afterwards.

Mr Yarra—We have worked around this topic on several occasions previously, and I think I know the point of the question. It is a valid question to ask, because it is a point of confusion. The savings that are identified at the time a contract is signed—that is, an evaluation is completed and a value for money decision made—the savings identified at that time are worked out by a combination of comparing the agency's projections about what is going to happen in future, in-house—

Senator LUNDY—At that point in time.

Mr Yarra—At that point in time, correct.

Senator LUNDY—The calculations in this, regardless, are based on that point in time assessment of savings?

Mr Yarra—Correct. The other issue that crops up is the savings that are being generated at this very minute. The audit report says it is an extremely difficult thing to track after that initial point in time. Whether that trend continues or whatever in three years time is very hard to say,

because so much has changed. This is about that point of singularity at that point when you freeze the modelling, you produce a number and, at that point that is—

Senator LUNDY—Which contains a certain projection as defined by the scope of the contract.

Mr Yarra—Yes, absolutely, and the scope of the contracts hopefully matches the scope of the in-house modelling—and so compares apples to apples—and it is our best attempt to compare what's in-house in terms of reaching forward for five years versus what the vendors have come in and priced.

Mr Smith—What we mean by 'our best' is the agency's best assessment not OASITO's

Senator LUNDY—No, I understand that. The point, I think, is clarified enough for me to pursue the question now with Dr Boxall, which is what your assessment is and how those projections and savings figures and everything associated with this document and those outcomes relate to the real expenditure being experienced by agencies and departments. The question is: what subsequent investment, by virtue of government policy or anything else, is being experienced by agencies and departments which takes the costs and hence the savings beyond the information and outside the actual figures contained in this report?

Dr Boxall—To try to make sure I get to the point, I could probably try and answer it from the perspective of the savings that we calculated when we outsourced our IT to IBM GSA. What we did was look and work up a base line of what it would cost if we continued in-house, making some assumption about the future activity. We looked at that and then we signed a contract with IBM GSA, which cost so much over the five years and which was based on the same activity, so that we are comparing apples with apples, and we came up with a figure of something like \$30-odd million, which is, say, 31 per cent.

Obviously, since that contract was put in place, activities in DOFA have changed. There might be new activities that are now being done by IBM GSA which were not anticipated when we signed the contract. But, similarly, if we had kept the in-house capacity, there would have been new activities that had been done. So we are confident, as best as we can be, and we had this checked off by business advisers and probity auditors at the time—and, indeed, Mr Bowen was in charge of it—that we have made the best possible estimate—

Senator LUNDY—That is very reassuring.

Dr Boxall—and that we have made these savings. I might add that the resulting savings have exceeded the original estimate.

Senator LUNDY—In relation to your overall expenditure, has it grown in the anticipated field or expectation of the scope of the contract or has it required a whole series of variations and more intricate changes than anticipated, rather than following the path of your expectation?

Dr Boxall—I think it is fair to say that the expenditure on IT has risen at a greater rate than was anticipated when we signed the contract. Let me give an example. The introduction of the new accrual budget and the AIMS program—that is something that I doubt was anticipated

when we signed the contract. There will be one or two things like that. On top of that is the important point that Mr Humphrys made about admin order changes. For example, we had virtually negotiated this contract with IBM GSA, and we had the merger of the Department of Finance and the Department of Administrative Services. Some aspects of the Department of Administrative Services—not to do with the service of electorate offices, but other head office activities of Administrative Services which were incorporated into DOFA—were put under this contract. Does that answer the question?

Senator LUNDY—It does. To put a finer point on it, that has obviously resulted in variations to your contract with IBM that have resulted in additional payments and an increase in expenditure that is not recognised in the calculations of savings contained in this report.

Dr Boxall—That is dead right, Senator Lundy. Any savings measures in the budget and all forward estimates are for current government policy. So if you have a change of policy like the introduction of the new accrual budget, then it is not included. So that is correct.

Senator LUNDY—Or the Office of Government Online or a GST or any of those changes in policy?

Dr Boxall—Indeed. Or, for example, the sale of removals—they go in the other direction.

Senator LUNDY—The point is this: that makes it pretty difficult to come up with claims of net savings figures, given that the net savings figures that are being used in this document, and hence being quoted by the minister and officers of the department, for example, relate to the point-in-time assessment and do not necessarily relate to the relative savings at the time on IT expenditure within the agency or department.

Dr Boxall—By ‘this document’ do you mean the Audit Office report?

Senator LUNDY—Yes.

Dr Boxall—I will speak very briefly on this because it is really an issue for the office of asset sales. The point is that anybody who calculates savings at a point in time has to make the best estimate of what the activity is going to be in the agency. The main thing is that you are comparing apples with apples.

Senator LUNDY—My point is that—and I just want to reiterate this and seek your confirmation—when the government talks about dollar figures in terms of savings, they are talking about a point in time assessment that does not necessarily have any bearing to the experience of the agencies and departments on their IT expenditure now, later, after this.

Mr Yarra—Unless that point in time is accurate.

Senator LUNDY—Has followed the path.

Mr Yarra—By definition. That is correct. This is a feature of all business decisions and all decision making frameworks going forward where you need the full net decision on a proper basis.

Senator LUNDY—So my question to Dr Boxall, which I put as part of that long question originally, was: what assessment is made about the movement of that relative expenditure to IT with those original projections that relate to the savings outlined in this document? Do you monitor that? Do you provide any advice on that? Can we get access to those figures?

Dr Boxall—The point is that if you are getting a very good unit cost deal at the point in time that you sign up, then if the number of units go up, you continue to get that.

Senator LUNDY—I appreciate that, but that is not my question.

Dr Boxall—Your question is: do we evaluate it over time, track this over time? The answer is that we do not do that because it is the responsibility of CEOs to manage their agency and keep track of how their agency is going, how their contract management is going.

Senator LUNDY—When I asked the question which I have done of agencies that tell me that their expenditure on IT is 25 to 30 per cent over what it was when their saving estimates were published by the government, the figures of which are still used by the minister, that is something that does in fact modify their experience as an agency—whether or not they are realising any savings and whether or not savings are somehow being returned to government.

Dr Boxall—Unless I misunderstand this, Senator Lundy, if an announcement is made that savings are X million dollars based on an assumed level of activity which the agency discussed and then it turns out that the activity is twice as much, it is possible the savings are greater than X million dollars.

Senator LUNDY—And possible that they are less?

Dr Boxall—It is very unlikely that they would be less because you would have more economies of scale. Why would you extend a contract or vary a contract to go backwards?

Senator LUNDY—In terms of the overall expenditure having increased—I suppose we could use Customs as a case in point, although they are probably not the best example because they were not one of the ones audited.

Dr Boxall—My understanding is that they outsourced their IT before the introduction of the—

Senator LUNDY—I am acknowledging that. I am not saying it is part of the program, but as an example of an agency that has experienced significant internal reorganisation, it has increased its expenditure significantly beyond what it anticipated in its contract, yet the government, OASITO and everyone else still lists the original savings, even though they bear little relativity to the actual expenditure and contracting of services that Customs is still experiencing.

Mr Smith—We have discussed in the past the fact that agencies spend more money on IT is not a function of the fact that they have outsourced.

Senator LUNDY—I appreciate that. I think you understand why I am clarifying these questions—

Mr Smith—I understand your point.

Senator LUNDY—because there is a very strong perception that the savings figures as reported, under whichever methodology, do reflect the real and current expenditure situation and the sort of savings that the agencies are actually experiencing. What I am trying to demonstrate here—and I think we have probably gone about as far as we can go—is that it does not necessarily bear any relationship to the real experience of agencies and departments engaged in this process.

Mr Smith—But the compelling point is that they make a projection for five years based on most often growing volume, and that is priced, and the price that we get per unit is based on increased volume. The greater the increase in the volume, the lower the unit cost. So what you can say with some confidence is that, for every dollar they spend in addition, they are going to get a lower unit cost in doing business. As we have discussed many times—

Senator LUNDY—I accept that point.

Mr Smith—it is up to agency heads to decide what they spend or do not spend.

Senator LUNDY—The issue is one of clarity and just trying to understand the nature of what the agencies experience compared to the political statements and the reported statements as they are documented here about what constitutes a cost saving under this program. I turn to a related issue about the cost savings.

CHAIR—While you are sorting yourself out, Senator Lundy, I will ask a question. In estimates, Dr Boxall or Mr Smith, you were asked to provide the financial advice that you had received on the methodology used to calculate the savings. Have you provided that to the secretariat yet?

Mr Yarra—On OASITO's behalf I will take that answer. I remember the Senate estimates hearing. The question was to identify the people who provided the advice, the date of that advice and the nature of that advice, and I think we have given an answer to a question on notice on that. In fact, I answered the question at the time. I said PricewaterhouseCoopers and Deloitte were the advisers. That is in the *Hansard* record. We took on notice the dates and the nature; I did not have it in my head at the time. I think we have actually subsequently provided a response, but I can give it to you now. The nature of the advice was to confirm the financial valuation methodology that we had adopted and that has been the subject of debate in the audit report. We can certainly give the dates: 26 May 2000 for the PricewaterhouseCoopers advice and 10 May 2000 for the Deloitte advice.

CHAIR—Dr Boxall?

Dr Boxall—Senator Campbell, I think we need to clarify the situation here. Actually, the Department of Finance and Administration has not sought any advice in relation to financial methodologies. But we have sought advice from KPMG, in the context of preparing the Commonwealth's consolidated financial statements for 1999-2000, on whether the IT outsourcing service contracts contained embedded finance leases.

CHAIR—Can you make copies of that advice available?

Dr Boxall—We checked on this this afternoon. We would like to make it available but we have to check with KPMG first. The advice was given to us, not with a proviso—I do not think 'proviso' is quite the right word—but on the understanding that we would check with them in writing before we made it available. But our disposition is to make it available.

CHAIR—Mr Yarra, can you make the advice that you referred to available?

Mr Yarra—With the two advices, PricewaterhouseCoopers' and Deloitte's, we have the same issue that Dr Boxall has, and our response is the same: subject to us doing that in a formality in writing, our disposition is to do the same.

CHAIR—We will await both of your responses. Mr Smith, I will just ask you something before we come to a conclusion; I know Senator Lundy has got other questions. Would you formally table, for the record, the documents you referred to initially, the copies of the contract, so that we can note that it has been done.

Mr Smith—Yes.

CHAIR—Senator Lundy, have you got a final question?

Senator LUNDY—Yes. It goes to the issue of the different financial methodologies identified by the Audit Office, particularly in the treatment of assets. We have heard at previous estimates from OASITO that, now that we are operating in an environment where the recommendation by Mr Humphry that existing contracts not necessarily be automatically renewed at their conclusion, some of the agencies within those clusters may find themselves without any IT hardware assets in their possession, thereby potentially limiting the opportunities for those agencies to proceed without the existing contractor, at least without a great deal of disruption. Is this an issue that the department of finance has considered in light of the Humphry recommendation being accepted by government, and do you have a view on the position that those agencies will find themselves in if, in fact, for all of the appropriate reasons they decide not to renew their existing contracts?

Dr Boxall—I suggest Mr Yarra answers first, and then I will follow up.

Senator LUNDY—That is fine, but I want to make the point that Mr Yarra and OASITO have advised me previously that they bear no responsibility for the operation of the contracts once they have been signed. That is why I am asking you. But I am happy, obviously, to hear Mr Yarra.

Mr Yarra—We will see how we go. My reading of the Humphry report is that it said, in relation to clustering, that they would not automatically renew in that clustered sense. Nevertheless, I assume that at that time the government's policy will still apply: they have an obligation to outsource. So when the decision comes—

Senator LUNDY—No, because very clearly the recommendations that were accepted in the Humphry report provided for the executives to make decisions on what was appropriate to be outsourced and what was not. Regardless of this pedantic rhetoric that we are hearing about, 'Well, you are going to outsource anyway,' that is actually not the case. We know that is not the case. So I do not think it presents any cover for your comments here.

Mr Yarra—Okay. I cannot speak for chief executive decisions in three years time, but the contracts that they have now provide more than adequate protection for those agencies in relation to the closing down—either the early termination or the coming to term—of the contract, in relation to their securing their IT services as that contract closes down.

Senator LUNDY—In what way?

Mr Yarra—They have all sorts of rights over the assets that they sold in the initial part of the outsourcing; they have all sorts of rights in relation to those assets that ensure continued service delivery.

Senator LUNDY—Do they have an option to buy them?

Mr Yarra—Let us call it an option to buy; in fact, I think that the contract language probably is more precise than that. In that concept it gives them rights over those assets rather than the contractor. The agencies have rights over their assets. The agencies are in a position to ensure that their services continue to be delivered, and they can exercise those rights.

Senator LUNDY—Dr Boxall, have you got any comment you want to follow up on that question?

Dr Boxall—Just to follow up, to reinforce that comment: there are a couple of points here. One that goes to the costing methodology, about the treatment of assets—

Senator LUNDY—This operational versus finance lease issue.

Dr Boxall—Yes, it goes to that as well. The other issue is that these contracts have transition-out clauses. Indeed, in the case of IBM GSA, because we entered into our contract relatively early, we will be starting to move into the phase about whether we have an option to extend, whether we look to another provider or whether we look to in-house. As we do that, we will need to go through the same decision making process that we did in 1997 when we let the original contract, and we will need to cost the options and then make a business decision. We believe that the transition-out clauses in the contract allow us to do that and give us the flexibility and, might I say, leverage as we move into the next phase.

CHAIR—That concludes tonight's proceedings, unless Dr Boxall or Mr Smith wants to make any concluding comments. If not, will you please note that the closing date for

submissions is 23 February. The date of the next public hearing will be posted on the webpage. We will, I think, have you back before this inquiry is concluded, for some further discussions. Anyone interested in following the inquiry should refer to the committee's Internet page, which will provide information about the progress of the inquiry on an ongoing basis. Thank you.

Committee adjourned at 10.33 p.m.