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SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES
COMMITTEE

Reference: The government's information technology outsourcing initiative

THURSDAY, 15 MARCH 2001

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SENATE
FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE
Thursday, 15 March 2001

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

Substitute members: Senator Eggleston for Senator Watson

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, Eggleston and Lundy

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 9.05 a.m.**KILLESTEYN, Mr Edward, Executive Coordinator, Business Solutions, Department of Immigration and Multicultural Affairs****McINTOSH, Mr Ian, Executive Director, Cluster 3 Contract Management Office, Department of Immigration and Multicultural Affairs**

CHAIR—I declare open the fourth public hearing of the Finance and Public Administration References Committee inquiry into the government's information technology outsourcing initiative. I welcome my Senate colleagues and the witnesses. Before we commence, I wish to advise for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to evidence provided. The committee prefers all evidence to be given in public; however, you may at any time request that your evidence or part of your evidence be given in private and the committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by the order of the Senate. I also remind witnesses that the giving of false or misleading evidence may constitute a contempt of the parliament. I now invite officers from the Department of Immigration and Multicultural Affairs to the table. Do you wish to make an opening statement?

Mr Killesteyn—Yes, thank you; I will make a very brief statement. As you are probably aware, DIMA is a member of the cluster 3 group of agencies. My particular responsibilities within DIMA cover information technology, but I am also chair of the Cluster 3 Management Committee. So, from the committee's point of view, I may be able to offer the perspective of an individual agency as well as the perspective of an agency that is a member of a cluster. My colleague Mr McIntosh is head of the Cluster 3 Contract Management Office and, again, that is one of the avenues by which we have a well-structured contract management process within the cluster. I am certainly happy to elaborate on that process for the committee.

It is worth noting too that many of the issues that the committee is likely to cover here today are also covered by a rather extensive list of questions on notice that was submitted through the Senate estimates process last month. The department will be submitting answers to those questions, of course, but, from the committee's point of view, it may prove a fairly valuable resource of written answers to matters particularly around the way in which the project was put together and also the role of OASITO and other agencies in that process.

Finally, it is also worth noting that cluster 3 is currently engaged in a public tender process for the provision of voice and data network services. Therefore, to a certain extent, it provides a bit of a model as to what the processes are when the initial tranche of outsourcing—the first contracts, if you like—comes to an end. Again, we are happy to elaborate on the process that cluster 3 is engaging in in that area.

CHAIR—Thank you. Mr Killesteyn, have those answers to the questions on notice that were taken at estimates been sent in? When can we expect those?

Mr Killesteyn—No. I do not think they are due at this point. It is probably within the next week or two that they will be provided. I think they will be available to the committee's reference shortly.

Senator BUCKLAND—I was not present during the estimates, so if I am going over things for the second time, please forgive me for that. You say that the overall cost over the five years is about \$160 million. I would assume that, within your outsourcing arrangement, you would have some ability to cancel the contract if the provider failed to deliver services to you. Could you take us through that process?

Mr Killesteyn—Yes, there are a number of provisions within the contract that provide flexibility for the cluster to vary the arrangements. They go from the more drastic end—for instance, where there is a dramatic breach on the part of the external service provider such as the disclosure of confidential or private information where the contract provides for termination—right through to clauses which are terminations for convenience, where, for a range of matters which are at the discretion of the cluster and the agencies, we may wish to terminate and seek the services of other providers or provide the services in other ways. Each of those clauses carries conditions. Termination for convenience clearly puts an obligation on the agency to make good any costs that the outsourcer may not have been able to recover up to the point at which the contract was terminated.

Within that range of termination provisions, there is scope for the cluster to, for example, seek other providers to deliver partial services. For instance, if there was a view that one particular line of service was not being adequately provided through the external service provider, it is within the discretion of the cluster to seek those services from elsewhere.

Senator BUCKLAND—If there were a serious breakdown in the system and cancellation were to be considered, would it be the cluster who would need to cancel that contract or would it be the department?

Mr Killesteyn—The contract that exists in our particular case is a contract between the outsourcer and the minister for finance. The cluster agencies operate not necessarily as a legal entity. We are not a legal party to the contract formally. The cluster agencies operate by way of a memorandum of understanding, which dictates the way in which we operate as a cluster. But any formal legal action within the context of the contract would have to be taken by the Commonwealth and through the minister for finance. If that came about, we would need to take the matter up with the department of finance and make arrangements with them for the action that we thought was appropriate.

Senator BUCKLAND—Do you have a contingency plan should such an event occur—that is, someone to continue to provide services to you in the intervening time?

Mr Killesteyn—No, it would be a fairly drastic position if it got to the point where you would seek to completely replace the outsourcer with another party. I think before you reached that position there would be a whole series of discussions, negotiations and so forth which would be looking to avoid that sort of very drastic action being taken by the Commonwealth.

Senator BUCKLAND—Do you have contracts with other providers for additional services or one-off services in addition to or outside of the outsourcing contract?

Mr Killesteyn—The situation may vary between agencies but, from Immigration's point of view, all infrastructure services, including provision of mainframe services, network services,

midrange, desktop support, telecommunications services, are provided through CSC, our external service provider.

Senator BUCKLAND—As a member of the cluster, and I think you said earlier that you could speak as part of the cluster group and as an individual department, what direct role did your department have in the preparation for and implementation of the outsourcing contract?

Mr Killesteyn—OASITO clearly took the lead in terms of framing the way in which the project was conducted—providing the templates in relation to the contract, the cost models and so forth. The agency role was particularly focused on ensuring that the services that were ultimately delivered and the standards at which those services were to be delivered were properly specified. There was a dual role, if you like. Our focus was on ensuring that services were right; OASITO's focus was essentially on the process of creating the RFT, negotiating with the tenderers and reaching a conclusion about the tenderers that provided best value for money. Our role was always part and parcel of that. It needs to be stressed that both OASITO and the agency were implementing government policy—government policy to outsource, where the expectation was that services would be provided by an external service provider. We had a vested interest in ensuring that the whole process, from specification through to evaluation and negotiation, met our best interests because we were the ones ultimately that had to live with the result. Our role was very strong in all parts of the process.

Senator BUCKLAND—When you determined 'we are going to go down this path of outsourcing' or to at least look at it as an option, did your department do a self-assessment of its requirements or did someone else do that? What involvement did your department have either way?

Mr Killesteyn—The specification of the requirements in terms of what services were to be delivered and the standards at which those services ought to be delivered was done by each individual agency. We did not accept them from anybody. We went through a process of engaging all of our business areas, looking at what services were needed and the standards and then specifying those as part of the request for tender that was ultimately distributed.

Senator BUCKLAND—How did you do it? Did you set up a specialist team to do that or was it just done among the management?

Mr Killesteyn—Perhaps Mr McIntosh can answer that question. He was intimately involved in the process at the time.

Mr McIntosh—Starting with the formation of the cluster, the originally proposed group had Immigration combined with the Australian Taxation Office and DETYA. There were some timing considerations that Immigration believed it had that made the originally proposed cluster not the most appropriate. Immigration was keen to be an early mover on the outsourcing arrangement and that had to do with ageing infrastructure and a need for infrastructure upgrade. In conjunction with the then Department of Administrative Services, Immigration combined in what became cluster 3. In terms of the cluster construction, that was very much an agency decision as to when and with whom it would approach the marketplace. The rest of the process was very much a cooperative and constructive process with OASITO. As Mr Killesteyn has said, agencies were very heavily involved in determining what it was that they wanted and how

it would be delivered. That, combined with the OASITO process and method, delivered the eventual outcome.

Mr Killesteyn—Our responsibility was to specify what we wanted. No-one else could do that for us. So as part of the process of providing and developing the request for tender, there were people and teams within Immigration—and I dare say within other agencies involved in the cluster—that set about the task of determining what our requirements were. That was done on the basis of engaging business areas to ensure that their requirements were understood, as well as—in terms of, for instance, the standards levels that had to be met by the outsourcer—research in both the standards that we were currently achieving from an in-house operation and what was happening in industry generally. This was to ensure that we were specifying standards that were not only meeting our requirements but also general industry practice.

Senator BUCKLAND—Were you given the option early on in the piece or in a subsequent period to look at a revised in-house option? It was in-house to begin with; I understand that. Did you look at an in-house option and try to gain efficiencies that way?

Mr Killesteyn—No. Essentially government policy was focused on outsourcing. With a good deal of hindsight I can say that it would have been an extremely risky path for us to take. On the one hand, we were focused on ensuring that our requirements were properly specified so that we could go out to the market. If, at the same time, we were seeking to use exactly the same people to develop an in-house bid, the risks of our being able to secure an outcome would have been extremely high. The path was outsourcing; that was the government policy that we were implementing but, as I say, in hindsight it would have been a very risky option to take.

Senator BUCKLAND—How many dedicated people are provided to your department by the outsourcing provider? Do you know how many there are associated with that?

Mr Killesteyn—Do you mean in terms of the number of people they use to deliver our services?

Senator BUCKLAND—Yes.

Mr Killesteyn—That is an extremely difficult question to answer. Firstly, I do not know—even if it could be answered. The difficulty is that, from an outsourcer's point of view, the services that they deliver tend to be leveraged across a whole range of organisations. For example, with regard to the mainframe services that are delivered to us—which is, essentially, the power of the mainframe—one mainframe, I think, is used by DIMA, but it is also used by a number of other agencies. So how you actually split the number of people who might be involved in the administration of that particular service is very difficult. I think the best measure is presumably as a consequence of the amount of money that we pay to the outsourcer on an annual basis.

Senator BUCKLAND—How much is that?

Mr Killesteyn—For the 1998-99 financial year the figure for the cluster in total—and I can give you a DIMA figure as well—was \$45.6 million and for the 1999-2000 financial year it was \$52.5 million.

CHAIR—What were the estimated savings in the budget for DIMA?

Mr Killesteyn—The budget reduction that was extracted for DIMA was approximately \$3 million per annum.

CHAIR—Have you been able to meet that?

Mr Killesteyn—I will answer your question, but it is sometimes difficult to be precise about whether or not the savings figures were achieved. All the indications that we have—and certainly the information and research that was done within the ANAO audit—suggest that, for the cluster and for DIMA as a specific agency, those savings were there. The ANAO report indicated that the actual savings from the first year of operation were about 80 per cent of the projected savings that were done. But, interestingly, that was about 1½ times greater than the actual budget reduction that was made to DIMA's forward estimates.

CHAIR—How were those savings achieved?

Mr Killesteyn—It was probably a combination of factors, but the way in which our contract is structured provides for unit rates for the consumption of services. There is a unit rate cost for mainframe services, a unit rate cost for desktop services, a unit rate cost for desktop support and so forth. The contract provides for those unit rates to decline over time. Every year of the contract the actual unit rate that we pay is declining. Notwithstanding the fact that our volume, our consumption, of resources is increasing, the unit rate actually reduces. In fact, there are a number of thresholds within the contract that provide that, if we go higher than a particular threshold, the unit rate falls again.

CHAIR—Were there a number of jobs terminated in DIMA after you entered into the arrangement?

Mr Killesteyn—Yes. There were staff who were previously supplying those services, and those support staff became redundant. As part of the move to an outsourced service provision redundancies and voluntary redundancies were offered to those staff and they left, so part of the saving obviously was from salary costs, but clearly that would have been turned into a requirement to pay for the services to be provided by the external service provider.

CHAIR—Do you know how much of the savings is directly allocated to salary costs from the redundancies?

Mr Killesteyn—Not from the analysis that we have done, no, I could not give you that figure. We can give you a salary figure associated with the number of staff that were otherwise or previously providing those services, but to then translate that into a savings figure I think would be rather difficult.

CHAIR—Perhaps you could give me the figures anyway, but what happened to the staff who took voluntary redundancies? Did they transfer over to the service provider?

Mr Killesteyn—Some did and some didn't. Again, our approach within the cluster was to adopt a clean break approach, so essentially we made no attempt to lock in those staff to go to

the new service provider. Essentially they were offered voluntary redundancies. It was up to the service provider, if the service provider wished, to make offers of employment to those people. From our street knowledge, if I can put it that way, approximately one-third of the staff that were offered voluntary redundancies, of which there are about 64, went to this particular outsourcer, to CSC. Again from the basis of street knowledge, I cannot recall one person who did not find a job, either with other outsourcers or in some other way.

Senator BUCKLAND—Going back to redundancies, I do not know whether it was a slip of the tongue or not, when you mentioned redundancies you said ‘redundancies and voluntary redundancies’.

Mr Killesteyn—Yes, all voluntary redundancies.

Senator BUCKLAND—So there was a mix of both, was there?

Mr Killesteyn—No, they were all voluntary redundancies. I just qualified my earlier statement by adding the adjective ‘voluntary’, but there were no forced redundancies in that sense.

Senator BUCKLAND—So if a person said, ‘No, look, I want to hang around and watch the paint dry,’ that was fine.

Mr Killesteyn—We sought in that process to try and accommodate as much as possible the wishes of our staff. There were some internal transfers of staff at the time into other jobs that were remaining from an IT point of view but, by and large, the majority of staff saw the opportunities that were there to look for offers of employment elsewhere.

Senator BUCKLAND—How many people within your department are dedicated to managing the contract, if you like?

Mr Killesteyn—If I could explain the contract management arrangements within the cluster, it is a three-tiered process. At the strategic level there is a cluster management committee which has senior representatives from the IT areas of all of the agencies involved in the cluster, and that meets approximately once a month.

Senator BUCKLAND—What size as far as numbers are involved in that, do you know?

Mr Killesteyn—There are about half a dozen agencies and there are half a dozen representatives that come along to that particular meeting. Working to the cluster management committee is the Cluster Management Office of which Mr McIntosh is the executive director. Within the Cluster Management Office there are seven people, and then at each individual agency level there are individual agency contract managers that deal with the day-to-day issues associated with the relationship between the agency and the cluster.

Overall, for the first year of cluster 3, the contract management costs represented about 4.8 per cent of the total volume of service charges that were levied by CSC. In relation to DIMA specifically, it was 3.7 per cent. I am giving you those figures because it gives you a benchmark to assess whether the contract management costs are high or moderate or whatever. We continue

to benchmark our contract management costs against the industry standard. Industry advisers generally say that a figure of between three and eight per cent of service charges should be covered by contract management costs. Our figures are at the lower end of that range, although I do not expect them to go any lower—certainly, at this point.

Senator BUCKLAND—Has the department or the cluster taken back on a part-time or a consultancy basis any of those people who took redundancy packages?

Mr Killesteyn—Not to my knowledge, Senator. If you wish, I can verify that and provide you with an answer later.

Senator BUCKLAND—Yes, thank you. Arising out of that, do you have any external consultancies or consultants working for you on the outsourcing process?

Mr Killesteyn—Yes. For instance, as part of DIMA's contract management area, we have a number of staff that are DIMA employees, as well as independent contractors. To my knowledge, none of the people who were in scope once the outsourcing project was put into place were previously employed by DIMA. Nevertheless, we look to source our people from all sources. Independent contractors are a convenient resource that we use from time to time to bolster areas when the workload is high.

Senator BUCKLAND—Can you give us—you can do it on notice, if you like, as you probably cannot give me the answer right now—a breakdown of the number of consultancies that you have in that category and the costs to the department or the cluster?

Mr Killesteyn—Can I just clarify that, Senator? Do you mean consultants who are engaged on contract management or consultants generally?

Senator BUCKLAND—Consultants that you bring in as a result of outsourcing. That would be, I think, pretty much looking at contract management.

Mr Killesteyn—It is often rather difficult to ascribe a cause and effect between outsourcing and the employment of a particular contractor. In our contract management area, many of the people are involved in managing specific projects—roll-outs of new software, for example. While the relationship is one between DIMA and the outsourcer, it is not necessarily because of outsourcing; it is something that has to be managed in any event, irrespective of whether it was an in-house provision of service or an outsourced provision of service.

Senator BUCKLAND—Some accounts must have been paid, so there must be some knowledge of how much is being spent and on whom it is being spent.

Mr Killesteyn—I think that the best thing is to focus on our contract management office within DIMA. I can supply a breakdown of both DIMA employees and other contractors that we are using.

Senator BUCKLAND—Thank you.

Senator EGGLESTON—I would like to ask a few questions related to the section in your submission on the implications arising from the Humphry report. You talk about the appropriate composition of cluster 3 and state that:

... the Humphry review found that while grouping of agencies may have served a useful purpose in enabling economies of scale decisions on the future composition of Clusters should be based on the existence of clear synergistic benefits from a particular grouping of agencies.

What do you see as the future for your particular department? Do you feel that you would benefit from operating alone or would you operate with other agencies and, if so, which ones?

Mr Killesteyn—That is a good question—I wish I had a crystal ball. They are precisely the sorts of issues that we are wrestling with at the moment. The cluster is an interesting set of bedfellows—if I can put it that way. We have a rather large agency in the cluster called the Department of Immigration and Multicultural Affairs. We have about 50 per cent of the total value of the contract. Beyond that, the scale drops away fairly dramatically. The Australian Electoral Commission is the next largest and has about 20 per cent of that value of the cluster. Then there are a number of smaller agencies—and not only are they smaller; they are parts of other departments, such as AUSLIG and AGAL.

I think it is going to be an interesting question over the next couple of months, or certainly 12 months, and each of those agencies is going to have to come to a view about whether or not it gets a benefit from the cluster. There are some clear benefits in terms of scale. I think that has been pretty clearly demonstrated, particularly from our perspective when you look at the unit rates that we are being charged. But there is no reason that those unit rates could not be secured by some of the other small agencies by participating with either their parent department or with other clusters. Interestingly, the issue first arose as we moved into the public tender process for our voice and data network services. Each agency has chosen as part of that tender—which in fact is operating now—to stay in the cluster for the time being. As I say, I would like to have a crystal ball. I think it is probably inevitable that there will be some changes to the mix of the cluster, but just how that mix will pan out I cannot say at this point.

Senator EGGLESTON—But you obviously see yourself working with other agencies, one would gather from that. You are not going to obviously—

Mr Killesteyn—Even that is an issue that DIMA has not yet reached a conclusive view on. As I said, we have benefited from the economies of scale, as the other agencies have. But we are now reaching a level of size where we are a large player in the market—perhaps not as large as the Australian Taxation Office or the Department of Education, Training and Youth Affairs, Centrelink or whatever, but we are certainly a large player—and one of the options open to us is to go it alone.

Senator EGGLESTON—You also talk about appropriate models of outsourcing and you say:

... the Humphry review noted research suggesting the full outsourcing model currently used in Cluster 3 is not the favoured model based on international experience and that other models that need to be considered include:

- selective outsourcing ...

- insourcing ...

- a combination of the above.

From what you have been saying about unit costs and so on, is it reasonable to say that outsourcing is probably the most favoured option of those three? Or would you go for the third option, which is a combination of both, with a heavy emphasis on outsourcing?

Mr Killesteyn—There is probably not a definitive answer. I would probably adopt the Humphry line, which suggested that you really need to look at the circumstances of each individual agency at the time and make a decision about whether outsourcing provides the best way of providing services. Having said that, I think there are probably a number of indications which suggest at least some of your services are going to continue in an outsourcing way. For example, telecommunications services have generally always been outsourced. We are about to close a tender on that part again. A rather substantial part of our total service costs go to telecommunications, and that will be outsourced. Mainframe services is probably another area where there is little value, it would seem to me from a personal point of view, in buying large mainframes and operating them yourselves. You can buy the services from people such as the external service providers and leverage and negotiate fairly good costs.

So the commodity-like services would seem to me to be the areas in which there would continue to be active outsourcing. It is the other areas which are perhaps of a value-added nature where I think the decisions are a bit harder to make. We are going to have to explore whether those are the types of services—which are generally around people, as distinct from commodities of machines—that we think are best outsourced or delivered in another way.

Senator EGGLESTON—What sorts of people are you specifically talking about? Is there not an advantage to you in buying in the expertise? There are people out there who are professionals, who keep up to date with the latest technology, and is there not an advantage in not seeking to have people within your own organisation to do those sorts of jobs but buying in the expertise?

Mr Killesteyn—I think, as is always the case with these sorts of things, there is never one particular path which is best; it is always a blend. To give you an example in relation to the development of e-commerce applications, we needed to bring in skilled staff as quickly as possible to assist us in putting applications online. To grow your own, if you like, and to recruit your own in a market which is extremely buoyant would have been both a long process and probably very costly. So there was an aspect of the market which is moving quickly. We needed to move quickly, so we had recourse to the independent contractor market as well as support from CSC to help us develop those sorts of applications. So, as I say, it really depends upon what you are trying to achieve.

Senator EGGLESTON—Can you give me examples of where it would be an advantage to have personnel in-house?

Mr Killesteyn—The biggest example is the contract management area. The contract that exists between the agency and the outsourcer is the primary vehicle by which the relationship is determined, the quality of the relationship and the quality of the services. Effective contract

management and staff that have got an understanding of IT as well the ability to manage contracts are some of the clearest and most prominent features of the need for staffing within agencies.

Senator EGGLESTON—Thank you. Would you say the advantages to you are summarised in saying that there is a cost advantage to you in having outsourcing in terms of economies of scale and therefore reduction in unit rates, which you referred to, and the purchasing of expertise—so you have the choice of the most expert people available in the market, rather than seeking to develop it within your own organisation? Would they be the two greatest advantages of outsourcing?

Mr Killesteyn—I think they are some of the advantages. Responsiveness is another advantage. Again, another good example probably relates to some of the issues that DIMA was faced with during the lead-up to Y2K and with our need to ensure that we had compliant infrastructure. I do not think DIMA could have done that by itself. I am not saying that the service provider was the only one that could have done it, but the external support that we had at the time was extraordinary. Then, beyond Y2K, another example is the sorts of shocks that we had to the system with Kosovo. We had to put technical people over into Kosovo. We had to establish safe havens here in Australia. They all had to be equipped with computers and Internet connections and all sorts of things to enable the Kosovars to communicate. All of those things had to be done quickly and effectively and at the same time as we were trying to deliver a whole range of other projects. That responsiveness with a large organisation behind you is extremely valuable.

Senator EGGLESTON—In any case, those sorts of demands also only come intermittently, do they not?

Mr Killesteyn—They do. Again, that is another area where we wish we had a crystal ball but they do not work.

Senator EGGLESTON—Thank you. That is all I had.

Senator LUNDY—I want to go back to the issue of savings. You mentioned that DIMA's allocated budget cuts over the five-year period were \$3 million per annum. Is that consistent across each of the years that you contracted out or did you suffer a budget cut prior to the contract being signed as well?

Mr Killesteyn—The budget cuts were made from the beginning of 1998; is that right?

Mr McIntosh—I think the 1998-99 year was the initial cut. My recollection is that it was less than a full year cut, but I am not absolutely certain on that.

Senator LUNDY—If you could get me that figure as well.

Mr Killesteyn—Yes.

Senator LUNDY—Did you actually have a budget cut before the contract was in place and you were able to start attempting to realise savings?

Mr Killesteyn—I think because DIMA was one of the early movers in relation to outsourcing, the implementation of outsourcing from 1 July 1998 broadly coincided with the timing of the first budget reduction. In that sense we were fortunate that we had the mechanisms in place for us to secure the savings.

Senator LUNDY—Sure. If you could just take on notice if you had any budget cuts in 1997-98, that would be useful.

Mr Killesteyn—In the previous year, okay.

Senator LUNDY—In terms of the estimated savings, the Auditor-General's report identifies \$55.3 million for cluster 3. Can you tell me the dollar figure of the estimated savings for DIMA at that point in time?

Mr McIntosh—I do not think we have the dollar figure.

Mr Killesteyn—If I can take that on notice. We do not have those figures here at the moment.

Senator LUNDY—You said before that you realised 80 per cent of the savings in the first year, so I think it is a pretty important figure. Have you got overall estimated savings for DIMA's portion of the cluster or do you just have an annualised estimation?

Mr Killesteyn—What I referenced before was the work that the auditors did during the ANAO audit to try to understand whether savings were secured or not.

Senator LUNDY—That is not my question. My question relates to what the estimations were at the signing of the contract and not what was realised. I want to know what you were working to in terms of the savings you were achieving.

Mr McIntosh—Those figures are available. We just do not have them with us.

Senator LUNDY—Okay, but I am sure you would be familiar with them. Can you give me an idea of what proportion of the cluster 3 savings were you hoping to realise, was it half or about \$15 million or \$20 million?

Mr McIntosh—I would be guessing and I would prefer not to guess.

Senator LUNDY—I am only asking for a ballpark figure. I can appreciate why you want the detail but this figure is the one that, as far as DIMA is concerned, sets your goals in place.

Mr McIntosh—There is a table in the audit report that shows the level of saving achieved for each of the cluster agencies against the level of saving forecast for year one. I am having trouble finding it, however.

Senator LUNDY—But I still want the estimated saving for DIMA. Can you point me to a table where it disaggregates the estimated savings of cluster 3 across the five years?

Mr McIntosh—The table I have in mind is on page 196 of the audit report. It is a year one table and it is in percentage terms.

Senator LUNDY—Okay.

CHAIR—Sorry, Mr McIntosh. I thought you gave us those figures earlier on in response to a question from me. Was that a different set of figures?

Mr Killesteyn—What I was reflecting on was the information inside the ANAO audit report, which is probably the best analysis that has been conducted of the savings that are emerging, at least from a cluster point of view.

CHAIR—There are two figures: one, as I said, is the actual savings achieved, but Senator Lundy is asking about what the predicted savings were when the contracts were signed. I thought you gave us those figures earlier on; I thought you gave us a figure of \$3 million in the first year.

Mr Killesteyn—That \$3 million was the actual budget reduction.

CHAIR—So that is a different figure again?

Mr Killesteyn—Yes, but judging on the basis of the audit comment, the actual savings were about 80 per cent of the projected savings.

Senator LUNDY—But we do not know what the projected savings were—that is what I want to know.

Mr Killesteyn—I will take that on notice and get back to you; I cannot recall the figure.

Senator LUNDY—Can you provide me with a dollar figure of what the projected savings were in each of the years of the contract, as well as the aggregated five-year estimate figure. Can you also provide the percentage of the \$55.3 million that that equates to, as far as DIMA's contribution to the cluster 3 set of figures is concerned.

Mr Killesteyn—Yes.

Senator LUNDY—Can you confirm that, working on the basis that you had your budget reduced by \$3 million each year over the five-year period, the total budget cut of \$15 million—working from the table on page 130—constitutes just under half of the agency cash budget reductions across cluster 3?

Mr Killesteyn—Yes, that is broadly in line with the sort of value that DIMA contributes to the total value of the cluster.

Senator LUNDY—In terms of doing those sums, could you also provide me with what the difference is, both on an annualised basis and across five years, between that estimated savings figure and budget reductions figure and then the net outcome, the cash difference? For

reference, the table on page 130 of the audit report starts to give you the picture that I am looking for. In realising the 80 per cent of those savings in the first year, can you give me a dollar figure of what that constitutes in the first year?

Mr Killesteyn—Again, I will have to take that on notice.

Senator LUNDY—Can you tell me whether the costs of redundancies for DIMA were calculated within your assessment of your first year realised savings?

Mr Killesteyn—As part of the evaluation of the projected savings, there was a figure of \$1 million, I believe, for redundancies. So it was included in the projected savings figure.

Senator LUNDY—So that \$1 million offset the savings projection?

Mr Killesteyn—For the projected savings figure, yes.

Senator LUNDY—For that first year or was it stretched across the outyears?

Mr Killesteyn—I do not know the answer to that question—

Mr McIntosh—I would expect that it would have been in the first year.

Mr Killesteyn—but we can check.

Senator LUNDY—Was that \$1 million figure for redundancies accurate?

Mr Killesteyn—I would have to say there is some difference of view as to whether the figure is \$1 million or another figure.

Senator LUNDY—A difference of view between whom?

Mr Killesteyn—There is a figure of some \$3.5 million that is quoted in the ANAO report. We have endeavoured to understand where that figure comes from. We believe it is too high. The \$1 million figure was an estimate made by the department back in 1997, when the projections and the cost models were being done. We would have to take some specific measures of the precise amounts of payments that were made for redundancies.

Senator LUNDY—Have you disputed the \$3.5 million figure with the ANAO?

Mr Killesteyn—Frankly, no. It only came to our notice as we were reading the audit report. We can confirm and get back to you on precisely what the figure is.

CHAIR—Did you ask the ANAO?

Mr Killesteyn—We did, but we have not got the information yet as to how they calculated it.

Mr McIntosh—It may be a question of what has been included in their figure that was not included in the initial estimate.

Senator LUNDY—Did you base your initial estimate on the number of people you would have been planning, at that time, to offer voluntary redundancies to?

Mr McIntosh—The initial estimate was a very rough estimate. It attempted to take into account the likely number of staff and it took a guess at the number of years service they had in terms of translating that into a dollar cost, and it was probably wrong. The \$1 million was a rounded figure, but it was an early figure.

Senator LUNDY—So it is likely to move upward, but you are contending not as far upward as \$3.5 million?

Mr McIntosh—We think so.

Mr Killesteyn—We think \$3.5 million would be the upper limit, an extreme limit, and \$1 million is probably a bit low, but we need to confirm it.

Senator LUNDY—So there could be some flex, of some \$1 million or so?

Mr Killesteyn—Yes.

Senator LUNDY—You are going to get back to me on what the dollar figure is for the realised savings in that first year. I would be interested to see how the actual cost of the redundancies impacts upon that, so it would be useful if you could make a note to provide a specific answer comparing the discrepancy and any further detail you can get on redundancy costs with your first year's realised savings dollar figure.

Mr Killesteyn—Yes. I would like to explain the nature of the calculation. What we attempted to do as part of the analysis and support for the ANAO during the audit was to make a comparison with the cost of providing units of consumption in the first year of the outsourcing contract, using the prices that we had in the immediate year prior to outsourcing compared with the prices that we were then paying for the provision of those services through the outsourcer. We simply took the volume of services—for instance, the number of desktops that we had in the first year of the outsourcing contract—and multiplied that volume by the costs that we were currently being charged by the outsourcer, and compared that with the costs that we were paying in the year immediately prior to outsourcing. So we got that figure which showed that we would have paid more had we continued to pay the prices in that first year.

Senator LUNDY—Are you talking about the 28 per cent savings compared to baseline calculations?

Mr Killesteyn—I am not familiar with the 28 per cent. I am just trying to explain how we derived that figure and how that figure was then compared with the projected savings from the first year.

Senator LUNDY—You have lost me on what figure you are talking about.

Mr Killesteyn—In the ANAO report, the assessment that they have made is that the actual savings in the first year of the outsourced contract was 80 per cent of the projected savings done as part of the evaluation. That 80 per cent figure was derived in a manner that I just described—by comparing the unit prices at the volumes that we were consuming those prices at through the outsourcer with the unit prices that we were incurring in the year immediately prior.

Senator LUNDY—I thought the 80 per cent figure was a comparison of actual savings compared to estimated savings. You are saying the 80 per cent is actual savings compared to cost baseline savings in the previous year.

Mr Killesteyn—No. You are right that the 80 per cent is a comparison of the savings secured in the first year with the projected savings.

Senator LUNDY—With the estimated projected savings?

Mr Killesteyn—Yes. I am just explaining how that was derived.

Senator LUNDY—How the estimated savings were derived?

Mr Killesteyn—Yes.

Senator LUNDY—Where does the baseline figure that you are describing, that you calculated from the previous year, sit in that calculation between estimated savings and actual savings?

Mr Killesteyn—I struggle with this as well—there are lots of figures that float around. There was a projected savings figure that was done as part of the evaluation. To derive a figure of actual savings in the first year, we did the comparison of unit prices times volumes in the first year, versus unit prices in the year immediately prior to outsourcing. That showed we were paying less for services now.

Senator LUNDY—But that is a unit price cost. I am asking for an overall figure. Are you telling me that your overall costs increased in the first year and that you had to go to unit costs and comparisons with baselines to demonstrate any savings?

Mr Killesteyn—What I am saying is this is the way in which the ANAO made that analysis—

Senator LUNDY—Eighty per cent?

Mr Killesteyn—And it is the only analysis that has been done to demonstrate whether savings were secured or not—there has been no other analysis. The explanation for that 80 per cent is to compare the volume of services consumed in the first year of outsourcing, using the unit prices that we were being charged by the outsourcer in that first year, and comparing them with the unit prices that we—

Senator LUNDY—Sure. That goes back to my point—

Mr Killesteyn—Then the difference between those two figures is matched against the projected savings and you derive the 80 per cent figure.

Senator LUNDY—Just to get this clear, it is the actual savings referenced against what we will call the baseline costs, which were the assessments of the year prior to outsourcing taking place. Is that an accurate description?

Mr Killesteyn—The problem is the description of baseline costs, because those baseline costs were the ones used as part of the evaluation to determine what the projected savings were.

Senator LUNDY—So we use volume and unit costs for the year previously?

Mr Killesteyn—Yes.

Senator LUNDY—Do you then derive a figure of difference between those two? How does the calculation follow from that point?

Mr Killesteyn—I will use a simplistic example. If there were 4,000 desktops that we were paying, say, \$1,000 for to the external service provider, that gives us \$4 million. If we had been paying \$2,000 for those desktops in the year before, that gives us \$8 million. The difference is \$4 million, and that is the saving that is then used to determine, against the projected savings, whether it was 80 per cent or whatever the figure was. It is as simple as that.

Senator LUNDY—Yes, I appreciate that. It is a really important process and part of the calculations that needs to be clear. Did you do any analysis of why you did not realise 100 per cent of your estimated or projected savings?

Mr Killesteyn—No, none at all. The further you get out from the baseline, the more difficult it is to really understand what is happening with the projected savings. Frankly, the computing environment that we have now is vastly different from the computing environment that we had on 1 July 1998. There is not a single piece of equipment on our floors that was there three years ago.

Senator LUNDY—So to go through a similar exercise now would be virtually impossible?

Mr Killesteyn—I think it would be impossible and rather fruitless, and you would probably be making some extraordinary assumptions which would probably invalidate the analysis in any event.

Senator LUNDY—Going to the question of asset treatment, which is something dealt with at some length in the audit report, can you place a dollar figure on, or even give in percentage terms, the value of your contract that you can attribute to the value of your assets that were transferred at the time of signing the contract?

Mr Killesteyn—We have a figure of the value that was placed on the assets that were transferred as at 1 July 1998. For DIMA it was \$3.8 million and for the cluster it was \$5.58 million.

Senator LUNDY—Just out of interest, in your savings calculations how is that \$3.8 million stretched across the outyears?

Mr Killesteyn—It is not. Those sorts of finer adjustments were not taken into account in our very simplistic approach to determining whether savings were accruing in the first year.

Senator LUNDY—Which is what contrasts the methodology you used through OASITO and that of the ANAO, who did calculate net present values across the five-year period of the contract.

Mr Killesteyn—Our attempt was just do to get some sort of indicative view, if you like, in the first year. I would not pretend that it is a very clever analysis of the savings.

Senator LUNDY—Sure. The point is that the \$3.8 million asset value of DIMA effectively came off the price of the contract with CSC, so it reduced your expense because you transferred the assets. The point of it is that, if that was in fact included and spread across the outyears, that would have meant that you paid more, which would have modified the bottom line projected savings or actual savings that you would have realised. Is that not the case?

Mr Killesteyn—I think that is a fair assessment. The \$3.8 million figure was part of the package and no doubt CSC would have made an assessment of what it could get for the assets and rolled that up into the prices that ultimately we were charged. Just how it did that and what actually it did secure and so forth I cannot really comment on. It was part of the whole package that each tenderer was required to submit prices as well as a view of what they would offer for the remaining assets.

Senator LUNDY—Can you tell me what is the proposed asset treatment at the termination of this five-year contract?

Mr Killesteyn—Firstly, there is no necessary guarantee that we will be terminating at the end of the five-year period—

Senator LUNDY—I know that, but I am asking you, if you did, what are the current terms and conditions of the contract on the assets.

Mr Killesteyn—The contract provides for equipment buyback by the cluster, with the exception of mainframe, which is an asset that is spread over a number of agencies. That would be at net book value, or depreciated value. The contract requires software to be provided at no cost to the cluster, and then we would simply take over the ongoing licence commitments associated with that. That is basically it.

Senator LUNDY—So to exit the contract you would incur an up-front cost to purchase back the equipment.

Mr Killesteyn—Things like desktops, yes.

Senator LUNDY—Do you have an estimated figure for that?

Mr Killesteyn—No, we have not done that estimate. At this point it is hard to actually work it out, because we are about to go into another refresh of desktops. The contract provides for a three-year refresh.

Senator LUNDY—Can you provide us with information about the technology refresh provisions in your contract and your estimation of the increased value of the assets over the time of the contract as a result of that technology refresh?

Mr Killesteyn—On notice?

Senator LUNDY—Yes, on notice is fine.

Mr McIntosh—I do not understand the second part of your question on notice. Could you ask it again.

Senator LUNDY—Could you provide the details of the schedule for the technology refresh over the five-year contract and the estimated increase in value of that hardware over time?

Mr Killesteyn—The answer is relatively simple. Essentially, the refresh applies to our desktop equipment and that is essentially a three-year refresh cycle, and the costs actually remain the same. There is actually no provision within the contract that provides for the cost to go up. In fact, the cost remains stable and—

Senator LUNDY—So it is a preset cost that you would have to purchase it back at and you would know that cost?

Mr Killesteyn—No. That would depend precisely on the depreciated net book value as at the end of year five. It is fairly simple. But what that figure is just at the moment I do not know. It also depends upon the mix of new and refreshed. The refresh that is due in October this year is about 2,000. Whether we go ahead with the full refresh or only a partial refresh is a decision that we have not made at this point.

Mr McIntosh—Which makes the question almost impossible to answer.

Senator LUNDY—Could you put those contingencies in your response and provide that explanation. I understood those refreshes to be locked in and part of the pricing. If there is a degree of flexibility there, I am particularly interested in how that influences estimated and projected savings. For example, can you make additional savings on the basis of not proceeding with a refresh? That is a really interesting question. Can you improve your bottom line performance on savings by not going ahead with a contracted and scheduled refresh?

Mr Killesteyn—We do have some flexibility.

Senator LUNDY—I am very interested in those questions and whether or not you intend to pursue greater savings on the basis of not upgrading your technology. I will leave a couple of questions with you on notice. First of all, could you provide me with some comment about the negative impact on your capacity to innovate and to provide new services as a result of any constraints that may occur through technology refresh, be they cost restraints or management decisions.

Mr Killesteyn—Again, the simple answer is, no, there are no constraints. We will provide further answers and demonstrate just where we have been able to introduce new innovations, new software.

Senator LUNDY—In relation to service credits or financial penalties applied, the audit report has some aggregated data for the cluster up to, I think, May last year. Could you provide me with a full table, as up-to-date as possible, of what financial penalties, have been applied and for what and provide a detailed description of the breach of the contract that occurred that attracted that penalty.

Mr Killesteyn—We will certainly provide the table. We can do that for the cluster as a whole and for each individual agency. It is probably a little bit more difficult to actually tell you what the precise breach is.

Senator LUNDY—Surely you would have some quality control mechanism monitoring that?

Mr Killesteyn—It is more about the fact that we have something in the order of 300 service level agreements.

Senator LUNDY—We have a table of that, I understand. Could you perhaps just cross-reference?

Mr Killesteyn—We will provide a breakdown of the major areas of concern.

Senator LUNDY—I am sure you have got a log somewhere. We want to see it.

Mr McIntosh—We can certainly do it by line of service, so we can tell you which bits apply to mainframe, which to desktop, which to help desk, and so on.

CHAIR—The ANAO report, recommendation 7, talks about using constant dollars. Your response to that was that you regard it as standard practice and will employ this methodology in the telecommunications service tender. What methodology was used in the original cluster?

Mr Killesteyn—In our evaluation it was discounted cash flow as well—constant dollars.

CHAIR—The Humphry review noted that, based on international experience, the outsourcing model currently being used cluster 3 was not favoured and there ought to have been a much more flexible approach. Has that been taken on board by the cluster in any reviews that you doing? Secondly, has that approach been adopted in terms of your telecommunications outsourcing?

Mr Killesteyn—The need for the telecommunications tender emerged during the time of the Humphry review. As part of the question as to how we were going to frame the tender, how big would the tender be and what would the volume of services be, each agency did examine the question of whether it was going to continue as part of the cluster or whether it wished to seek those services separately. Each agency came back at the time and agreed that we would continue in the tender for the purposes of the telecommunications part. Whether each agency continues to adopt that position as we come to the end of the first five-year part of the contract is an issue that I cannot comment on at this point. We have not really addressed our minds to that.

CHAIR—Thank you, Mr Killesteyn and Mr McIntosh. The senators may have some questions for you on notice, and we will give you a date when we require those responses.

[10.18 a.m.]

PETROVIC, Mr George, National Organiser, Community and Public Sector Union

REYNOLDS, Mr Matthew, National President, Community and Public Sector Union

CHAIR—Welcome. Do you wish to make an opening statement?

Mr Reynolds—We appreciate the opportunity to provide some further comment to our written submission. Our submission builds on the views expressed by the CPSU on this topic in previous submissions. We take the opportunity to provide positive suggestions on how to deal with the gaps in policy created by the current state of the IT outsourcing initiative and the recent welcome shift in government policy. It is important that we do not overlook the forgotten voice in the current IT policy debate. Public sector workers, both those who are required to work with the consequences of any outsourced contract and those who work in IT within public sector agencies, who hold so much knowledge and expertise, have never been asked their views before or since the IT outsourcing program began.

The CPSU welcomes the unchaining of agencies from centrally imposed clusters and considers that future decisions on what and what not to market test should be assessed against the strategic goals and objectives of the organisation. In addition, the decisions should be assessed against a public interest test including public accountability, client service, prevention of vendor capture, privacy and industry development. An examination of agencies in clusters that have already been outsourced should be undertaken with a capacity for an agency to remove itself from the cluster. This will ensure that the delivery of IT infrastructure is specifically directed to the needs of that agency and not to the largest or dominant agencies in the cluster. It is our understanding that the secretaries of cluster 5 agencies have met to discuss the significant problems they have endured with their IT contract but, given that they are in a contractual situation for a five-year period, they have discussed what is the best way of progressing negotiations with their external service provider, on either a group or an individual basis.

Agencies with databases of the community's private information—for example, Centrelink, the Taxation Office and the Child Support Agency—or agencies with databases of national importance—for example, Customs and AQIS—should also assess how they can best meet the implementation risks that were identified by Richard Humphry for a number of agencies, including Centrelink, Family and Community Services, the law and the science agencies.

Public sector employees are now in two categories: those in agencies who have outsourced their IT infrastructure and those in agencies who have not. The experiences of those who have an external service provider must be heard, as the efficient implementation of the functions of government are dependent on and integral to the effective and timely delivery of IT infrastructure. The costs of implementing the government initiative have not yet taken into account the apparent loss of productive working hours as a result of the end user problems. Attached to our submission, we have listed a sample of the end user problems that have been reported to us and are continuing to be reported to us. We recommend that a survey of users in agencies that have outsourced their IT infrastructure be conducted, that the results of that survey be made public and that, where deficiencies arise, contractual resolutions are put in place.

As the committee is already aware, agency budgets have been cut to match the anticipated savings that the Auditor-General's report now shows were never realised. These cuts to budgets should be reversed in the 2001-02 federal budget, with any savings impacting on agency budgets only after it can be demonstrated that savings have been made.

Where outsourcing does occur, protections for employment conditions and salaries are inadequate. Whilst the current IT market has assisted with the smooth transition of staff, this may not always be the case. Future bids should not be able to achieve savings simply at the expense of staff salaries and conditions. The UK has put in place the Transfer of Undertakings (Protection of Employment) Regulations in 1981, during the period that Margaret Thatcher was Prime Minister, to safeguard the rights of employees when work is transferred from one employer to another. These protections safeguard the rights of employees in five key ways: by allowing them to transfer their employment on the same terms and conditions; by protecting them from being dismissed solely as a result of the transfer; by providing for the transfer of collective agreements; by requiring the new employer to honour existing arrangements for trade union recognition; and by obliging both the old and the new employer to consult with a recognised union or with elected employee representatives. These provisions have been operating successfully in the UK public sector for a period of 20 years. The CPSU recommends that this type of protection be introduced for any functions, not just IT functions, which are outsourced from the Commonwealth public sector.

During the time frame of the implementation of the government initiative, there has been at least one major and a number of smaller machinery of government changes. Whilst the CPSU is not privy to the detail of the individual IT contracts, we do believe it is important to highlight the need to integrate contingency arrangements for machinery of government changes. This will ensure that weaknesses in individual IT contracts do not preclude the government of the day from enjoying full flexibility in the way in which government is to operate.

Those agencies that have not outsourced their IT infrastructure have been suspended in a period of uncertainty for a number of years. The uncertainty particularly falls on staff involved in the delivery of the IT infrastructure in those agencies. Our members report that issues such as investment in IT infrastructure, upgrades and staff training and development have been put on hold due to this uncertainty. Additionally, anecdotal information indicates that public sector IT workers' wages have not kept pace with the private sector. It is in the interest of the Commonwealth to attract and retain the most dedicated and efficient staff, and to maintain high levels of skill and knowledge. To ensure that these staff are as valued as they deserve to be, the CPSU argues that a detailed strategy should be developed for public sector IT workers that deals with salary levels, training and development, retention of corporate memory, skills transfer and exporting the better practice of specific agencies to other public sector agencies.

The CPSU believes that, given a level playing field, the best value for money is the in-house option, but there is not an opportunity for the in-house option to prove itself. Whilst we have correspondence indicating that it is government policy not to allow in-house bids on market testing for corporate services, we are not aware of any policy restrictions of this type placed on IT outsourcing, yet the harvesting of unrealised savings and the approach taken by OASITO have not been conducive to agencies providing support to an in-house bid. The level of expertise and proven ability to provide a service should be a major factor in all competitive tendering, yet one major provider with expertise and a history of service delivery is cut out from

this process. Academic studies indicate that the provision of in-house bids not only ensures value for money in the tendering process but has positive impacts on the continuous improvement process for the in-house option leading up to tendering. International better practice in the US and UK has provision for in-house options to be considered. The Auditor-General's report No. 2 of 1998 into the Department of Defence commercial support program provided comment on the value of in-house bids. In paragraph 6.4 the report comments that the existence of a viable in-house option is of great importance if the Commonwealth is to achieve best value for money from market testing. By simply not supporting in-house bids, the Commonwealth is deliberately cutting off a major provider that may well—and in our view is likely to—provide the best value for money. As this is the only way of ensuring best value for money for the Commonwealth, the CPSU recommends that in-house bids be part of this process, with adequate lead time and resources provided to agencies to allow them to compete fairly.

Senator LUNDY—To begin, how does the Transfer of Undertakings (Protection of Employment) directive impact on the CPSU's view of the clean break option being the desire of many of your members who are faced with voluntary redundancies in the lead-up to IT outsourcing?

Mr Petrovic—As I understand it, Senator, those two processes are not mutually exclusive.

Senator LUNDY—I realise that but, because it seemed that the clean break was expressed as the preferred option, the Transfer of Undertakings (Protection of Employment) provisions did not have a role to play. Are you now saying that you think they do?

Mr Petrovic—It might be useful to give a bit of background to that part of our submission. Where we are coming from there is we are saying that we think there should be legislation that has a broad objective of ensuring that conditions are not bid down as part of the contracting process. It seems to us that TUPE is an example of that. Perhaps it may be useful to us; perhaps not. From looking at relevant case law in the UK and the EU, there is a substantial amount of litigation around TUPE, and it has its flaws, to be quite frank about it. The main point we are making there is that we think that there should be legislation in place that has the express objective of, firstly, addressing these sorts of situations where functions are outsourced out of government to a private provider. Secondly, that legislation should be designed to protect, to put a floor under, people's conditions so that the bid is about efficiencies, better delivery of service and so on, rather than simply driving conditions downwards. The motivation for that comes from recent case law in this country primarily around section 149 of the Workplace Relations Act, which goes to transmission of business. There have been a number of prominent cases like PP Consultants and Stellar Call Centres. In our interpretation, our case law now seems to permit a situation where conditions can be bid down.

Senator LUNDY—Just to clarify, you don't see TUPE operating as a replacement to having the clean break option available?

Mr Petrovic—Even if you look purely at TUPE, the way I understand TUPE to work is that if there has been a transfer of an undertaking then the new employer simply stands in the place of the old one. The employees are not explicitly required to transfer. If they choose to, their conditions remain the same. If they choose not to, it is very similar to what happens here: they

become subject to normal redeployment and redundancy practices. Within that framework, if you assumed that TUPE was working, which we don't necessarily, then you could still have the clean break if you so desired.

Senator LUNDY—You mentioned that you were unsure about the policy restrictions on in-house bids to do with IT outsourcing. Can I just clarify that? From my point of view, it was certainly very clear that, in accordance with the original cabinet submission that was leaked on IT outsourcing, in-house bids were specifically prohibited under the IT outsourcing.

Mr Reynolds—When we went looking for material in regard to that, we could not find any material, but very clearly in-house bids have been prohibited in practice, and there has not been any talk about providing support to any in-house bids—like, say, for Defence—through the commercial support program.

Mr Petrovic—I am not aware of a specific policy provision that says there shall be none, unlike the one that has been recently circulated by OASITO re market testing of corporate services. The main thing that has killed off in-house bids in IT outsourcing is the absence of funding.

Senator LUNDY—I take that point, but I can tell you we have taken evidence from witnesses from agencies and departments who said that it was government policy not to mount an in-house bid, that they had been directed as such, and that that actually was contained in and accepted through that original cabinet submission. I wanted to clarify that, because the only in-house bid that was successfully mounted with IT outsourcing within this period of coalition government was, indeed, Defence. That was because they were not part of the IT outsourcing program per se in those two first financial years. It is very clearly our understanding that it was actively prohibited by the department of finance for agencies to go down that path.

I am very interested in your service quality issues and the lack of almost quality control feedback, if you like, from Public Service employees pre- and post-IT outsourcing contract; and I note your recommendations. Your submission documents the kinds of problems that your members are experiencing on a day-to-day basis. I am conscious of time, so I do not want you to repeat what is in your submission, but could you give me a stronger sense of just how much those transition changes and the upheavals—with email systems going down and desktops crashing so that you are not able to do anything—are actually affecting your members, even if it is just anecdotal information to describe the level of frustration that is being experienced? This is probably quite difficult, but could you attempt to quantify the impact, either in dollar terms or in sheer service quality terms, on those agencies and departments?

Mr Reynolds—It is in some respects quite easy but in other respects quite difficult. Certainly, the material that we have is anecdotal information; but, when you couple that with the service credits issues which are linked in the Auditor-General's report, it indicates that there are very serious problems. As I said, it is our understanding that the cluster 5 agencies have met and that part of that discussion was that the service credits are now so high that they are meaningless.

Senator LUNDY—They constitute more than their savings, I think.

Mr Reynolds—Indeed. I will give you a couple of specific examples. In one agency, a relatively small agency, people continued to be thrown out of the system. They logged on successfully and worked for a very short period and then were thrown out of the system. They kept on doing this. They were coming to work with a work plan for that day or that week and, for a three-week period, they continually had to interrupt their work by logging back in and having to recover the work that they had already done over the past 10 or 15 minutes; and that was on a continuous basis. Those people, after a couple of days of this with no expectation that the ESP would fix it quickly, did calculate how much time an area lost and, in a small area of about 25 staff, they lost over 500 working hours in a three-week period.

There are circumstances where email is as much a communication channel as a telephone, in many of our members' work, but people have not been able to access it, or have been dropped off systems for a week, or their log-ins have been cancelled and have not been able to be recovered for a number of days. That is extraordinarily frustrating when you cut off one of the major communication channels they have with their clients and with their colleagues. The difficulty in accessing help desks is something we hear from some agencies, with managers occasionally telling staff to stop ringing the help desk because every time they ring it costs money, even if you are reporting the same problem. So, if a problem is reported more than once, then the ESP is clocking up the \$25 fee on each of those occasions—or whatever fee the contract provides for.

Senator LUNDY—We have heard at various Senate committees that it costs the departments a dollar figure for every help desk call that an employee makes to the vendor. What is your knowledge of those costs, regardless of whether any service credit or penalty subsequently applies?

Mr Reynolds—We are not privy to the contracts, and our understanding is that it is different in different agencies. In some agencies there are fixed costs, but in other agencies there is a cost—for example, \$25—every time somebody calls the vendor. If there is a major problem, if the system has gone down in a particular time, that vendor may receive numerous phone calls reporting the same issue.

Senator LUNDY—So they actually make money out of the systems going down, by having to service help desk calls?

Mr Reynolds—Absolutely.

Mr Petrovic—Can I add a comment there? Looking in the literature prior to this hearing, it seems to me that that sort of charge-back system is quite archaic—that would not be an exaggeration. I do not know how these ESPs run their operations, but you would guess that, if there is a constant tallying of every call and the cash register rings every time the help desk phone rings, there must be some bureaucratic overheads in tallying that, accounting for it and so on. No doubt the agencies pay for that, as well as for the pure fact of the help desk call. As I understand it, there are other charge-back systems used in these sorts of contracts which do not operate that way but allocate blocks—

Senator LUNDY—They do not create an incentive for providing bad service.

Mr Petrovic—Yes. You could say that it was a positive incentive for the ESP and a negative incentive for the users, because they are discouraged from using the service. As it says in our appendix, they tend to just try to live with the problems if they can.

Senator LUNDY—Rather than make the call to the help desk?

Mr Reynolds—If it is a problem getting to a help desk, they either live with the problem or seek out IT savvy people in the workplace. In those instances, some of those IT staff who did remain on are being asked to assist with fairly minor problems which a help desk should be able to deal with. Other problems include logistical issues of not being able to move equipment. It is ludicrous not to be able to move a computer from one desk to another.

Senator LUNDY—What are the restrictions there?

Mr Reynolds—There was a restriction in the Australian Taxation Office that you were not able to move a computer from one desk to another, for asset tracking purposes, but if you are moving a computer 10 feet or less, then the asset tracking is not too much drama. It took three days to get the vendor to come and move that computer to another desk.

Senator LUNDY—Do you know how much they charge for moving a computer from one desk to another?

Mr Reynolds—No.

Senator LUNDY—We will have to ask the tax office.

Mr Reynolds—To replace the toner in printers is not a highly technical task—outside the health and safety risks of toners—but in one instance it took four days to get the toner replaced because the employees of the agency were not allowed to replace the toner and the vendor had to come in and replace that toner.

Senator LUNDY—Do you know what they charge for that very specialised task?

Mr Reynolds—No. There is an impact on resourcing in collecting the problems. In some agencies and workplaces they have given up because it is too bureaucratic to collect the problems and then be able to track improvement or not track improvement.

Senator LUNDY—We have asked some agencies and departments about their quality assurance or quality control mechanisms, and some have alluded to having a system in place. We have not asked that question of everyone as yet, so we are not actually sure, but are you aware of any quality assurance system in place by any agency or department to get feedback directly from their employees about the experience the employees are having with the outsourcer?

Mr Reynolds—Some surveys are starting to occur. The Health Insurance Commission is starting to survey its staff. Certainly on a branch or division level there are questions being asked of employees about their experiences, but not as a quality service tracking system. We do

not see much. Either we cannot get access or there are not sufficient tracking systems for these problems. We guess that in lots of instances they are actually held by the vendor, because they would obviously need to log their problems and track the solutions. But that information is certainly not available on a broad scale to our members.

Senator LUNDY—Do you as the union collate information about problems experienced by your members?

Mr Reynolds—We invite our members to tell us what is going on. In many instances our members let us know what is going on without invitation. We keep those, but it would not necessarily be an accurate tracking system because there is not a systematic and consistent methodology.

Senator LUNDY—No, I am not suggesting it would qualify as a de facto system—it is not your responsibility. But it would be eminently useful for this committee to have some of those examples of problems experienced by your members.

Mr Reynolds—We keep those. We have numerous emails and messages from members who are having particular problems. We could depersonalise those and forward those to the committee, if the committee would find that useful.

Senator LUNDY—That would be useful, thank you. In terms of the concept of establishing an in-house bid and an in-house opportunity, you mentioned that that process of preparing an in-house bid has synergistic effects on efficiencies and effectiveness of those units anyway. Can you elaborate on that point? The Defence example is the only one I am aware of. Are you aware of any other examples where agencies were actually in a position to try and improve their delivery of IT prior to outsourcing?

Mr Reynolds—Certainly agencies are required to operate in the most efficient way possible, so there are certainly efforts for continuous improvement type programs. In reference to IT, what we had is a program with time frames—time frames that were never met—of when agencies would go to tender and when they would be outsourced. Agencies were then reluctant, not surprisingly, to spend large amounts of money on IT infrastructure leading up to the tendering process. Some staff took the opportunity to leave, or to move on to other parts of the organisation. So what the whole IT outsourcing program was doing was saying to the IT workers, ‘We don’t want you; we want you to leave.’ Some of those chose to leave early, some chose to hang around until the end and some chose redeployment to other parts of the organisation. But an in-house option actually puts value back in for those workers and for an imperative for a continuous improvement program, because they have an opportunity to show that they are the best value for money, whereas at the moment they are still being told, ‘We want you to go.’

Senator LUNDY—What has been the impact on morale of those with IT expertise in the Public Service over the last few years?

Mr Reynolds—It certainly plummeted when the IT outsourcing program began—it was not even a market testing program—and has stayed extremely low. People have taken other opportunities; people know that they are waiting for their turn for an outsourcing tenderer to

come along. As I said, the message that that sends in terms of their value is that they are not wanted, so it is not surprising that that impacts on how they feel about their job, how they feel about the agency and how they feel about their work.

Senator LUNDY—The Institution of Engineers published a report last year expressing concern, amongst other things, about the ability of agencies to manage contracts. But they also identified the issue of the Public Service having become effectively deskilled in the area of IT and IT systems integration, system management, systems administrators, et cetera—the techies. Can you comment on what the union's assessment is of that impact on the deskilling of the Public Service in IT related professions and skills?

Mr Reynolds—The Institution of Engineers report certainly reflected our own expectations and information that we had. What we have in the public sector now is some very skilled IT workers who are committed to the objectives of their agency and who are committed to public service, but there are not enough of them. So many people have moved on. What we are seeing is that there are not a lot of new IT workers, young graduates, moving into the public sector, because the opportunities very clearly are not going to be there. They would be coming into agencies about to outsource their information technology. So that certainly impacts on the quantity of the skills which are around, but the people who are there are working inside constraints which are overbearing.

Senator LUNDY—I have a further question in relation to training, which you mentioned in your submission. What is the impact on, I suppose, generic IT training and skills development with Public Service employees since the introduction of the IT outsourcing program?

Mr Reynolds—What is being reported to us is that many of the IT workers are not receiving skill upgrades and training and development as they were pre the outsourcing initiative. Certainly if an agency is reluctant to upgrade their equipment they will continue to work with old software and technology, rather than work with the latest up-to-date technology if the agency was upgrading and improving its IT infrastructure. That whole question of the level of expertise and how IT workers within the APS have been treated really needs a full response in terms of their wages, their training and development and what skills are required to put the APS back into the front of the IT industry and analysis and applications development and so on, which it has been before. There is no reason why it could not work with industry to continue to be at the front of IT development.

Senator LUNDY—Thank you.

Senator EGGLESTON—Obviously your position is very much that you would prefer internal solutions to these sorts of issues.

Mr Reynolds—Yes.

Senator EGGLESTON—I suppose we have to accept that IT is a fast moving and ever changing area of technology, and that it requires very often specialised expertise. You can also say that IT is not the core business of the agencies. To look at another example, agencies have vehicles but they do not have mechanical workshops. They send their cars out to be repaired when they need to and have that service provided by outside mechanics. Isn't there some logic

or rationality in the concept of using IT people outside agencies who are up-to-date with the technology and that is their business, rather than each agency trying to maintain a core of people who have a sophisticated knowledge of the current technology? I accept that obviously there is a case for having an IT management team in an agency, but isn't there some rational case for using people whose business is to be up to date with the technology and who then contract out their services to various agencies?

Mr Reynolds—Agencies have been using external expertise for an ongoing period. Centrelink quotes a fairly high level of IT services which are provided externally, even though they have not gone through the IT outsourcing initiative. IT is so integral to the objectives of each agency that the IT managers and the people in control of IT need to be not only expert in the IT but expert in the objectives and goals of that agency. I had a contractor who has a small IT company based in the ACT ring me on Tuesday. He indicated that, for the agencies that he works for and derives most of his income from, it took him six months to understand the processes within them, what they were trying to achieve and where they were going. Once he did that, that assisted. So that continuity of who was providing that service was obviously quite important. Yet he indicated that other contractors turn their people over very quickly and they do not understand the agency and they do not understand what the objectives of that agency are.

Additional to that, the experience in academic studies overseas is that you need to retain the expertise in-house to be able to manage it properly. If you have an IT management unit overseeing an IT contract, they need to be extremely knowledgeable about the IT as well as the objectives of those agencies. The APS in the past certainly has had expertise and has had the opportunity to pull in external expertise when they need to do so. But they have also had that internal expertise. We have circumstances now where Screensound Australia are actually selling software that was developed in-house externally, so they have expertise in those areas. It needs both. The situation of the IT outsourcing initiative was an 'all or nothing' approach which is significantly problematical, and Richard Humphry identifies that in his report. Mr Petrovic might like to make a comment.

Mr Petrovic—I would just like to comment. I get a bit concerned when I hear people say that IT is not agency core business. Agencies to a very great degree are about the collection and provision of information and services to clients, which is supported by IT. If you lose control of that, you lose control of your core business and your service delivery. Problems of control in IT outsourcing—or lack of control, to be precise—are very well documented in the literature. As Matthew has indicated, you need not only the technological expertise but also the expertise in the business of the agency and how those two things interact. Essentially, that expertise resides to a large extent in IT shops in agencies. If those go somewhere else, that expertise disappears and you have a problem.

The other comment I would make in relation to your question, Senator, is that access to expertise from ESPs is something that you would need to look at very carefully. For example, if some unforeseen circumstance arises during the life of a contract—perhaps the government of the day may wish to start a particular initiative that it had not thought of when the contract was signed—the industry expertise will be there through the ESP, but it will cost you. It will be an unforeseen cost. Probably the best and one of the most notorious examples of that is the UK Inland Revenue. In 1994 or 1995 it started off as a £1 billion contract with EDS. The UK government of the day then decided that it wanted to implement self-assessment, and three

years down the track it became a £1.6 billion contract. That is a 60 per cent cost blow-out. I think the expertise is there, but it will cost you.

Senator EGGLESTON—But I suppose, though, to be fair, it is always the case, isn't it, that there are often cost blow-outs in industry, there are cost blow-outs in government—

Senator LUNDY—Yes, all the time.

Senator EGGLESTON—These things happen. What bothers me about your case is that, if you have all of these services in-house across the board, two things may occur: perhaps an unnecessary duplication of effort and perhaps a lack of access to the best expertise, because you would get variations in the standards of knowledge, if you like, and in the sophistication of different groups of IT experts in different agencies. What seems to me to be perhaps the ideal solution is this mixture where you have a sophisticated IT literate group within an agency that determines what the needs of the agency may be. You talked about unexpected changes in policy. That group in that sort of situation would determine what would need to be done to service the requirements of that policy change, but they might then go out to a very skilled group of outsiders to prepare the programs and to design the system that would meet those needs. Why do you feel that that would not be the most prudent use of the resources both within the agencies and the community?

Mr Petrovic—The basic problem with that model is that the outsiders have only technical expertise; they do not have the agency expertise. Again, in the literature, if you look at IT as a mere commodity that you can chop up this way or that way but you can essentially sell off whatever bit you like, best practice studies indicate that does not work; that is the least effective way of managing your technology.

Senator EGGLESTON—That is a very interesting comment. I would have thought, even though you say personnel change, you would expect to develop an ongoing relationship with, say, an outside contractor and that they would, over time, get to know the agency's requirements quite well.

Mr Reynolds—At the moment, APS agencies have access to external industrial expertise on a case by case basis, depending on what their requirements are at a particular time. In a five-year locked-up contract you are captured by that vendor. You can only go to the expertise of that vendor, which may or may not suit the particular circumstances at that time; you cannot choose across the industry. It would appear to us that the best model would be where there are internal operations but access to expertise when it is required.

The other problem with that is that it would be difficult to maintain that level of IT expertise and linkage with the objectives of the agency, and to keep that experience and knowledge in-house, if you do not have an IT operation internally. It would be quite difficult and not necessarily useful to the agency's objectives to separate IT, and I suppose that is our major point: it is impossible to separate information technology from the objectives of the agency.

Senator EGGLESTON—Your in-house people would understand the objectives of the agency. One would have thought that the external vendors, even though they might be on a five-year contract, could subcontract and bring in people who might have the skills required to

address the particular needs involved in some program. The other broad issue is cost. It seems to me that if you had totally in-house services there would be enormous cost in keeping those people up to date with technology and advances and that in effect you would achieve a cost saving by buying in the expertise from outside. The outside vendor would have to bear the cost of constantly upgrading the knowledge and skills of the people involved in that agency, and that cost would therefore not be debited to the agency. It is the old story of buying in a specialist, and it is the specialist's business to keep himself up to date.

CHAIR—With respect to that, I am sure the external provider would pass those costs on, if there were costs associated with upgrading skills. But I think you should also read the submission from the Australian Customs Service, Senator Eggleston, where they express some concerns about the external provider not being able to recruit adequately skilled personnel to carry out the functions for which they have contracted.

Senator EGGLESTON—Thank you, Mr Chair, but I did ask the witnesses.

CHAIR—I just thought I would draw your attention to that.

Senator EGGLESTON—I am very grateful for your assistance.

Mr Reynolds—Training and development is the responsibility of the employee and the employer, in whatever industry. Within the costs that the external service provider is going to charge an agency they would have included the staff development and training and skills upgrade costs. One of the major areas that the external provider cannot provide training and development in is public policy issues; how agencies operate and the public interest. Their motivation at the end of the day is obviously to provide a service for a profit. Within an agency, an internal IT operation has as its imperative the strategic objectives of the agency, and that is certainly something which you cannot buy from outside. But if you have an internal operation you can buy in technical expertise as required.

Senator BUCKLAND—I want to raise with you the question of consultation at the beginning of the process of outsourcing. Were your members consulted in any depth as to their views about outsourcing?

Mr Reynolds—Absolutely not. The whole of government outsourcing initiative was an imposed one. There was huge debate, among our members generally and our IT members specifically, about what was going to occur and how that would impact. But certainly none of that was done in a consultative way; it was just done in tearooms and on bulletin boards. In a number of instances in a number of agencies the IT workers set up their own bulletin board so that they could have this discussion, but it was created by them and, as far as we understand, the information did not get taken into account in the decision either on the outsourcing initiative or on how the outsourcing initiative was implemented.

Senator BUCKLAND—Was the union itself brought in by departments to outline the process that had been adopted by the government?

Mr Reynolds—Again, after the event, in some circumstances agencies brought us in. In other circumstances we approached agencies to consider the impact of the outsourcing initiative: what

was in scope, what was not in scope, what the human resource management strategy for the staff involved would be, et cetera. But it was after the event and it was not in an effort to seek our opinion on what was the best way of delivering IT infrastructure to the public sector.

Senator BUCKLAND—Once the process had been announced, no doubt there was an announcement that separation packages would be placed on the table. Was there consultation with the work force as to how best to achieve that after the initial announcement? I refer to toolbox meetings, but they would perhaps be tearoom meetings.

Mr Reynolds—In some circumstances, yes. In the circumstances of the Australian Taxation Office, DIMA and so on, who have outsourced, very clearly there was a staff strategy which needed to be put in place. We got very heavily involved in that when that was needed. But in other agencies that have not gone out to tender, or in the case of DETYA and DEWRSB did go out to tender and then pulled it back, there has not been consultation on what the staffing strategy would be and what the direct impact was, because those agencies, quite rightly, continued to say that they did not know what the impact was as they had not developed what was in scope, the tender specs had not been developed and the decision had not been made.

Senator BUCKLAND—Has the CPSU seen a process that allows you to learn from your experiences from the early stages up to where you are now and where you will be at the point of renegotiating further contracts or outsourcing arrangements?

Mr Reynolds—The reason we put in our submission that there needs to be a human resource strategy for IT workers is that those precise questions are unanswered at this stage, given that the government has recently changed its policy and agencies are now considering how they will proceed or whether they will proceed. We are in a new arena now, because prior to that change it was clear that an agency would outsource, and it was only a matter of timing, not of fact.

Senator BUCKLAND—I have read through this with interest and, not surprisingly, picked up the points made in the employee comments that you have included in appendix A. I note that people were waiting 76 days for something and four days to get a bit of black ink put in a refill or whatever. I have noticed things like that, but how dramatically different is that to pre-outsourcing arrangements?

Mr Reynolds—We do not have any data on the pre-outsourcing arrangements. Certainly the level of complaints that we get is significantly greater from agencies which have outsourced than from agencies which have not outsourced, so that is probably the only reasonable comparison which we can take at this stage. If you are asking whether there are problems with internal providers, I suspect there are, and we sometimes get complaints about them, but the vast majority of the complaints that we receive are from those with external providers. Half of the complaints that we receive are from the Australian Taxation Office.

Senator BUCKLAND—The complaints that are taken up with you by your members, and generally they would be complaints of being dissatisfied with what is happening—

Mr Reynolds—Yes.

Senator BUCKLAND—have they been pursued on an individual basis with the departmental heads or the providers?

Mr Reynolds—The complaints that we receive are no doubt known to the agencies. On occasions, as I indicated, we invite comments, so people will tell us about experiences, but those same public sector workers know that we cannot fix the issue, that the issue has to be fixed within their agency. If it took 76 days to get a computer, yes, they did follow that through. It has to be followed through within the agency. The information that we receive we certainly make available to agencies on an agency-by-agency basis when we have consultations with them about the impact of this and the frustration levels that our members have, so certainly we do pursue these through the agencies as well. Unfortunately, we are not privy to the details of the contracts to know precisely what the contracts say. We are aware of some of the service level agreements which exist, and we hear reports about the service credits and the penalties which have been imposed on agencies, but service credits and penalties do not take away our members' frustration.

Senator BUCKLAND—In your submission and in response to one of Senator Lundy's questions you mentioned training. You mentioned the loss of skilled staff through outsourcing and the additional stresses that are put on the individuals. Is that the stress that they are placed under to complete their tasks, or is it stress that is on them that is causing sickness and lost time from work? I suppose I am referring to stress in medical terms.

Mr Reynolds—The frustration of stress we are referring to and alluding to in our submission is in terms of getting their work done, not in terms of their medical stress. We have not looked for any instances where our members have been subject to medical stress. Again, that would be taken up as an individual issue. Certainly uncertainty is a major factor in terms of people's anxiety levels and getting their work done and, with the bleeding of some IT workers, that does place a lot of pressure on the remaining IT workers in the in-house provider to do their jobs.

Senator BUCKLAND—I am quite conscious of the time. I have a range of questions, but most have actually been answered. Earlier you mentioned that you are not privy to the individual IT contracts. It is the contract between the departments or the clusters and the provider that I imagine you were talking about there.

Mr Reynolds—Yes.

Senator BUCKLAND—With regard to the conditions of employment for employees, are they covered by an enterprise agreement or an award? What is your arrangement there?

Mr Reynolds—Which employees: the external service providers?

Senator BUCKLAND—No, I am talking about those remaining within the departments at the moment. Indeed, you could expand that to include the external providers as well.

Mr Reynolds—The people who remain are, generally speaking, under a certified agreement, so it is a public document. A number of them would be under Australian workplace agreements, and certainly we have had members come to us seeking opinions on an offer of an AWA, particularly where that AWA has retention bonuses in it. A number of those have been what we

would call single issue AWAs, which pick up all of the conditions in the certified agreement but pay a retention bonus to an individual. Unless the employee wishes to make that information available, we would not have more broad information on how many of those retention bonuses are being paid and what the costs of those are.

In terms of the external service providers, the approach has been a clean break approach, so those people who are excess to requirements as a result of a function being outsourced are made redundant. If they end up with the external service provider, they are working under the conditions of that particular company.

Senator BUCKLAND—Do you have any instrument in place for those external providers?

Mr Reynolds—No, we do not. We have a number of employees in some of those external providers who are members and who have sought our assistance in their industrial issues—not many, but some—and certainly we would want to expand that number. But generally there is not a collective agreement that we are involved in in those external service providers, outside of IBM GSA, where there is a collective agreement for part of IBM GSA which we are a party to.

Senator BUCKLAND—Do you know if any of the employees who were offered and subsequently took the separation package from their respective departments were offered employment with the provider in advance?

Mr Reynolds—No, I do not know. The arrangements for leaving the employ of the agency and potentially picking up a job with an external service provider very clearly is a matter between those individuals, and we have no knowledge of that. Agencies are very clear in informing their staff that they have no role in arranging that employment either.

Senator BUCKLAND—Was the CPSU approached by any of its members who were offered packages and were reluctant to take those up?

Mr Reynolds—Absolutely. A number of our members reported that they were in a difficult position where they did not particularly want to leave but there was no option; the work that they were doing was going. So they would have preferred to have remained with the agency but were not able to do so. It would not have been their preferred choice, but they made that choice. Certainly it is a time when those staff have to make a pretty tough life decision.

Senator BUCKLAND—My final question is in relation to training again. I may not have picked this up when it was asked originally. Who is responsible for providing new or upgrading training to employees in the department?

Mr Reynolds—The department would be responsible for ensuring that they have the skills within the department, so they are responsible for assisting employees to increase their skills, knowledge and development. But, again, that is a bit of an unknown area, which is why we are recommending that there be quite a comprehensive strategy for IT staff in the APS to find out where they are at and what their needs are and to ensure that there is a program that can actually deliver their needs.

CHAIR—Thank you, Mr Reynolds and Mr Petrovic.

Proceedings suspended from 11.19 a.m. to 11.35 a.m.

KENNEDY, Mr Floyd, Assistant Manager, IT Industries Development Branch, Department of Communications, Information Technology and the Arts

SUTTON, Mr Michael, General Manager, IT Industries Development Branch, Department of Communications, Information Technology and the Arts

CHAIR—I call the committee to order and welcome the witnesses from the Department of Communications, Information Technology and the Arts.

Senator BUCKLAND—When it was announced to your department that outsourcing was going to be the manner in which you would go into the future, what involvement did your department have in preparing to be outsourced? Would you explain that to us very briefly

Mr Sutton—I should explain that the area of the department that Floyd and I come from is the area that is responsible for handling overall industry development matters for the overall initiative. We are not from the area of the department that was directly involved in the outsourcing of DCITA's IT functions and services.

Senator BUCKLAND—What method was employed to assess the success of industry development, and what were the surveys that were carried out to take you down the track that you went?

Mr Sutton—Is this in relation to the overall initiative?

Senator BUCKLAND—Yes.

Mr Sutton—The framework for industry development was put in place at the commencement of the initiative by what was then OGIT in consultation with the Department of Industry, Science and Technology. DCITA took over the industry development role with the change in the administrative arrangements orders after the 1998 election. So this department did not have a direct involvement at the stage when the original industry development framework was formulated back in 1996 and 1997.

Senator BUCKLAND—With regard to the actual responsibility for that framework that was to govern IT industry development in the future, what was required of you as far as preparing tender documents or submissions on tender document requirements is concerned?

Mr Sutton—Under the framework which was put in place, OASITO had the overarching role in implementing the framework. The industry development aspects of the framework were implemented jointly, originally with the Department of Industry, Science and Technology and since the 1998 election with our department. Our role in the process is that we directly provided comments on requests for tender prior to their release, and DCITA had a representative on the options committee which made recommendations to the Minister for Finance and Administration prior to the final decisions being made. Our main role in the evaluation process was that we provided generally two participants in the industry development evaluation team, which was based in OASITO and was headed by a consultant who was appointed by OASITO and included one other private sector consultant.

Senator BUCKLAND—Who was that, by the way?

Mr Sutton—The head of the IDET was Ms Yasmin King from South Australia. So our direct role in the evaluation of the tenders was through the representatives that we provided to the industry development evaluation team.

Senator BUCKLAND—Did the options committee look at the options of the tenders that were submitted, or did they look at alternatives to outsourcing?

Mr Sutton—It was called the options committee. Basically the ID evaluation took place on a separate track to the evaluation of the services side of the tender. The options committee was where the ID evaluation and the services evaluation came together. As I say, the options committee included a representative of our department.

Senator BUCKLAND—So it did not look at an option, for instance, of in-house as opposed to tendering out?

Mr Sutton—No, the task of the options committee was to consider the evaluation reports that had been prepared on the services side and on the ID side.

Senator BUCKLAND—In your submission it says that the ID plans also contain measures that can be taken in the event that the contractor does not meet the ID milestones. These measures include issuing breach notices, negotiating rectification plans and imposing financial sanctions. Can you explain how severe the financial sanctions may be?

Mr Sutton—The financial sanctions are part of the contract and they can be quite significant. They are commercially sensitive and they vary between the various contracts. Their significance varies depending on the extent of the breach which has been incurred. But they are certainly significant.

Senator BUCKLAND—Earlier evidence that we have had indicates that a significant breach could bring about the termination of a contract with an agency. Were you involved at all in drawing up the guidelines as to what might constitute such a breach?

Mr Sutton—No, we were not. On the industry development side of the contract, I am not aware of those sorts of sanctions being available. That may apply to the services side of the contract. I am not aware of it applying to the industry development side of the contract.

Senator BUCKLAND—It also says ‘in the event of a contractor not meeting the ID milestones’. I know what a milestone is. What occurs if that milestone is not reached, and what are the milestones?

Mr Sutton—The milestones vary with each contract. They relate to subjects like Australian value added, SME content for in-scope initiatives, level of exports, and level of employment for out-of-scope initiatives. So they vary across the contracts. We monitor that aspect of the contract through annual reports from the prime contractors in each case. If it is apparent from the annual report that there is a problem in meeting the specified milestones, we will discuss the

report with the contractor and, if necessary, issue a breach notice to them requiring rectification of the deficiency or the failure to meet the milestones.

Senator BUCKLAND—I understand the report has been given. Who actually determines if the milestone is not met: the agency who is getting outsourced services provided or your department?

Mr Sutton—For the industry development milestones, the reports on the industry development aspects are made to our department. DCITA is responsible for monitoring and administration of the relevant industry development schedules of the outsourcing contracts. The prime contractors are required to lodge an annual report with us, and that report is required to be audited according to specified Australian accounting standards.

Senator BUCKLAND—Where exactly does your involvement sit with where outsourcing is at the moment across departments?

Mr Sutton—As I say, we are responsible for monitoring and enforcement of the ID schedules of all five of the outsourcing contracts. We consult with the relevant cluster management committee as necessary on industry development matters which may impact on the overall administration of the services side of the contract. For example, if we are considering the need to take action for failure to meet milestones, we would inform the cluster management committee of the proposed course of action. Just generally, we ensure that they are aware of what is happening on the industry development side of the contract.

Senator BUCKLAND—Are you able to change the parameters of industry development in this field mid-term, or as you go?

Mr Sutton—There are provisions for variations in the contracts to reflect the reality that, as with any contract, circumstances will change. So there are defined variation provisions. In administering the ID side of the contracts, the general approach we apply is that we are happy to consider variations, but consistent with the underlying rule that any variation must not diminish the overall amount of industry development being delivered under the contract.

Senator BUCKLAND—Does cost come into that, as far as any initiative taken must include a reduction in overall cost?

Mr Sutton—No, that is not a relevant part of our considerations. Generally, an issue will arise because there is some parameter on the industry development front, whether it be in scope or out of scope, which has changed or is causing a company difficulty in meeting their commitments under the milestone. That company will then make us aware that there is a problem or an issue and we will sit down and negotiate with them on the basis that any variation, as I say, must not diminish the overall value of the industry development being delivered.

Senator BUCKLAND—I am assuming that your department has an ongoing role in industry development which will not have a finite life, such as two years after the introduction of the last contract or anything like that.

Mr Sutton—Our role for the specific contracts is certainly for the life of the contracts but, under the government response to the Humphry report, we also have an ongoing role in administration of the industry development aspects of the outsourcing initiative, and that is not tied to particular contracts.

Senator BUCKLAND—So that means that, as contracts come to the end of their life and there is renegotiation for another period—three, five or whatever years—you will be involved in the development of that?

Mr Sutton—It has not arisen yet, but certainly that would be the case, yes.

Senator BUCKLAND—I know you would probably like to concentrate on the positives, and we are more than interested to hear that; certainly I am. Could you tell us the major points that you have picked up from the first round that you have been involved in and any changes that you might be recommending or might want to implement as a result of where you are today and the experiences you have had to get to where you are in relation to ongoing and further development?

Mr Sutton—Certainly. Attached to our submission to this inquiry is the report of outcomes for the first year of the initiative, and we will be producing one of those reports each year of the initiative. The general news in relation to the extent to which the prime contractors under the three contracts are required to report for that 1999-2000 year is a very positive story. In most cases they have exceeded their commitments under the contract. There are a few cases where there has been underperformance and, where necessary, we have discussed with the companies any necessary rectification actions. But, in terms of the commitments that the companies signed up to, the story is basically a very positive one.

The Humphry review—the government has endorsed certainly the key recommendations of that review—creates a need to reconsider the entire framework for industry development. Under the previous framework, there were a small number of centralised contracts, with OASITO taking the coordination of putting them together. With the new environment of agency heads being given discretion on how they outsource, our expectation is that the number of outsourcing contracts is going to increase, and a significant number will be of a much smaller magnitude than the sorts of contracts which have been let so far under the initiative. That is creating a need to reconsider in quite a significant way the previous approach to industry development, and we are in the process of doing that. When the Humphry review was released and the government endorsed its key recommendations, Senator Alston announced that this department would be holding consultations with a range of agencies and key players to develop a new industry development framework to apply in the post Humphry era. We are in the process of doing that at the moment.

CHAIR—I want to follow that issue up but, first of all, in response to a question from Senator Buckland you said that you are here representing only the industry development section of DOCITA. Why is there no-one here to talk about their outsourcing experience?

Mr Sutton—It was our understanding that we were called to provide evidence in relation to the submission that was lodged and focusing on the industry development aspects.

Mr Kennedy—I rang the secretariat in relation to the list of issues that we received in the letter to clarify what sort of information was required—the letter was directed to Michael at our branch—and to clarify that our area was only really involved in the industry development. They said, ‘That is all you would be expected to discuss.’

CHAIR—I just wanted to clarify why there was no-one here.

Senator LUNDY—Chair, can I just say that at the last round of estimates it was not possible for me to ask questions to the depth I was after of the corporate services section of DOCITA about their experience within the group 5 contract, and I would still look forward to such an opportunity.

CHAIR—Mr Sutton, on the industry development issue, what steps did DOCITA take in the initial stages of the outsourcing agenda to sit down and talk to the industry in the broad sense about the issues and the method by which the government could best contribute to industry development initiatives?

Mr Sutton—As I mentioned to Senator Buckland, we took over responsibility for industry development after the 1998 election. Prior to that time, the initial development of the industry development framework was in the hands of what was then OGIT, in consultation with the Department of Industry, Science and Technology. In terms of the history of the extent of consultation which occurred, that is probably a question that would be better directed at what is now OASITO.

CHAIR—Mr Sutton, I happened to be on the committee that developed that industry development strategy prior to 1998—in another capacity—and I get a bit sick and tired of getting kicked from one department to another when I ask this question. If I ask it of Industry, they say that DOCITA are now the people responsible for monitoring industry development; if I ask it of you, you tell me to talk to OASITO; and presumably if I ask it of OASITO they will tell me to talk to the Department of Industry, Science and Resources or to go back and talk to you. Somebody has responsibility. You took over the monitoring. As I understand it, some of the individuals out of Industry also went across to DOCITA as part of the team doing the monitoring, so there would have been continuity in the industry development issues. At some stage, was there any discussion with the industry about the government’s outsourcing initiative, what that meant for industry development and how best it could be applied in terms of industry development outcomes?

Mr Sutton—I do not know whether I can take questions on notice, but I am not able to answer that question this morning.

CHAIR—You are not aware of any discussions that took place with the industry in a broad sense?

Mr Sutton—I am not aware of any discussions, but I am simply not across sufficient details of the background of the initiative.

CHAIR—You are responsible for doing the monitoring of the industry development initiatives. Can you put a value on the industry development initiatives that have resulted from

the IT outsourcing initiative? You have given us some highlights in your paper. You talk about an Australian value add of \$845 million and SME participation of at least \$330 million. You mention these as highlights, and you talk about an additional investment of \$92 million and exports of \$277 million. Do you have a total figure on the industry development outcomes?

Mr Sutton—We have published figures in two senses. The first relates to the overall commitments that have been made under the initiative across the five contracts that were let. We also have figures for the outcomes for the first year of the initiative. If you like, I could run through some of those.

CHAIR—Please do.

Mr Sutton—The total IT commitments made by the five prime contractors over the five years under the initiative are Australian value add of \$845 million, or 75 per cent of the total service charges of the contract; SME participation of at least \$330 million of in-scope business, comprising about 30 per cent of total service charges; additional investment of \$92 million; and exports of \$277 million.

CHAIR—Those are the figures I just read out to you from the attachment to your submission. That is under the heading ‘1999-2000 industry development highlights’, so I am assuming that that is not the total figure. If it is the total spend—

Mr Sutton—Those are the total industry development commitments under the contracts.

CHAIR—What is the total value of the contracts?

Mr Sutton—As I said, the \$845 million represents 75 per cent of the total service charges.

CHAIR—No, I did not ask you that; I asked you for the total value of the IT contracts.

Mr Sutton—Without having a calculator in front of me, it is certainly in the order of \$1.1 billion.

Mr Kennedy—If you do the maths on it, \$845 million is 75 per cent of the total contract value at contract signing, so I would expect the total value would be about \$1.1 billion.

CHAIR—So you are saying that that represents 75 per cent of the total value of the contracts?

Mr Kennedy—Yes, that is correct.

CHAIR—What does the government spend on IT?

Mr Sutton—I could not tell you.

CHAIR—Isn't it somewhere in the region of \$6 billion overall?

Mr Sutton—I am not aware of that information, but we can certainly find that information.

CHAIR—Isn't that figure fairly relevant in terms of industry development and what share of it is actually going to the local industry? I would have thought, if you were monitoring, that would have been a pretty relevant figure to have had in your head.

Mr Sutton—Our role in the monitoring is in relation to the specifics of the IT outsourcing initiative, as distinct from the total governments spend on IT. So our role is confined at the moment to the five contracts which have been let under the initiative so far and future contracts which will be let.

CHAIR—But I thought you had a broader role in terms of industry development.

Mr Sutton—Certainly our department has a broader role in IT industry development, and we administer other programs that are related to government procurement, in particular the Partnerships for Development program and, together with DOFA, the industry development aspects of the endorsed supplier arrangements.

CHAIR—Who in your department does that?

Mr Sutton—My area of the department is responsible for those programs.

CHAIR—So, in the broad sense of industry development per se, particularly in the IT industries, it is your department that does the monitoring.

Mr Sutton—We administer the relevant programs; that is correct.

CHAIR—What discussions, what interchange, do you have with the industry about the effectiveness or otherwise of those programs?

Mr Sutton—We have extensive discussions under the Partnerships for Development program which involve agreements with 70 or 80 mainly multinational IT companies selling to governments around Australia. They are required to provide annual reports, and we regularly sit down with them and discuss issues and the nature of their ID commitments. We also meet, in the context of those discussions and separately, with a range of Australian small to medium enterprises about their experiences and issues that they are confronting.

CHAIR—Do you talk to the industry associations on a regular basis about what is happening in the industry?

Mr Sutton—Yes, we do.

CHAIR—Which associations do you talk to?

Mr Sutton—The Australian Information Industries Association; AEEMA, the Australian Electrical and Electronic Manufacturers Association; the Interactive Multimedia Industry Association; and, less frequently, the Internet Industry Association. We also have contacts with

a group called Entrepreneurs Only, a Sydney based group which is a get-together of entrepreneurs at very early stages in companies' development. Basically we are open to discussions with any industry association or forum which has an interest in industry development issues.

CHAIR—Do you have a formal structure within which this takes place?

Mr Sutton—There are no formalised structures that we utilise. But, as I say, we are in frequent contact particularly with the AIIA and AEEMA.

CHAIR—Do you ever talk to them collectively?

Mr Sutton—No, I cannot think of an occasion where we have got together collectively with industry associations.

CHAIR—Are there any written industry development plans or strategies?

Mr Sutton—Overall, the role of the department is to administer the IT and T industry development-specific programs. The National Office of the Information Economy, which is within Senator Alston's portfolio, is responsible for development of the overall strategic framework for industry development for the IT and T industries, and they have an industry development framework, a strategic framework, which is applied to this sector.

CHAIR—So your section is not responsible for the industry development of the IT industry; it is purely responsible for the monitoring of what agreements exist.

Mr Sutton—We are responsible for delivery of the IT and T industry specific programs. The National Office for the Information Economy is responsible for the strategic settings and policy oversight, if you like, policy coordination in the area.

CHAIR—Do you talk to them on a regular basis?

Mr Sutton—We certainly do.

CHAIR—Are there any written strategic plans being developed on how to promote this industry?

Mr Sutton—There are a range of areas where NOIE is active in policy coordination. In terms of being able to give you a clear handle on those plans, I think I would be better off taking that question on notice and consulting with NOIE to give you a full listing of their current activities in this area.

CHAIR—I appreciate your taking that on notice, Mr Sutton, but are you aware of any written strategic plans that exist in respect of the development of the IT industry in Australia?

Mr Sutton—Yes, there certainly are some.

CHAIR—Can they be made available to the committee?

Mr Sutton—Yes. We will take that on notice and consult with NOIE and provide the committee with that information.

CHAIR—How do you monitor whether or not the contractors who are making commitments with respect to industry development are actually meeting those commitments?

Mr Sutton—The mechanism is through the annual reports. Under all the contracts, they are required to lodge an annual report, and each of the annual reports has to be audited according to Australian accounting standards and lodged with us. After receipt of the report, we assess the extent to which the companies have met their commitments under the contracts and, if necessary, we will have discussions with the companies on any issues which may be apparent from the reports.

CHAIR—How are those commitments entered into? Are they a percentage of the contract? Are they a specific commitment to utilise particular companies? Are they specific to purchasing particular services and so forth of SMEs? How are they expressed in the contracts?

Mr Sutton—It depends on which area we are talking about. If we are talking about Australian value added and commitments to use SMEs, they are percentages of the overall service charges. Out-of-scope commitments, which are ID commitments not related directly to delivery of services under the contract, are in the nature of specific numbers of jobs, investment and export outcomes.

CHAIR—Are there any spot checks done?

Mr Sutton—The formal requirement under the contract is the annual report. The annual report is the formal trigger for any formal action that may be required under the contract. However, we keep in regular contact with the primes during the year, particularly during the first years of the contract, to ensure that their systems are adequate, to ensure that they understand our requirements and the requirements of the contract, and basically to smooth the administration of the contract.

CHAIR—Basically, you rely upon what information is provided in the annual reports.

Mr Sutton—That is correct. Those reports are required to be audited by independent auditors.

Mr Kennedy—Oversighting officers often take the opportunity to make site visits to various initiatives that might be put in place by contractors as well. Often we let contractors know, if they are having particular events, that we would like to be present to see the progress that is being made, and that is particularly in relation to the out-of-scope activities. On the in-scope side, I suppose our checking regime involves keeping in touch with the agencies and attendance at the management committee meetings from an ID perspective. So there is a checking arrangement there also.

CHAIR—What sort of discussion takes place within the department in terms of your experiences of these outcomes?

Mr Sutton—In what sense?

CHAIR—Is there any process by which you report back to someone in the department or is there a committee within the department that you report back to and say, ‘We have achieved this, this year; now we ought to be able to build on this. If we do this, we can achieve more and a better outcome’? Is there any sort of discussion of what the commitments are, what the results have been and what other initiatives can be taken to improve the outcomes?

Mr Sutton—Certainly in the section in which Floyd works, which is in my branch, there is a lot of interchange between the various case officers working on each of the contracts about issues that are arising. But the specific role in relation to each contract is confined to monitoring of the commitments within that contract. However, in a broader sense, one of the things we are mindful of is that the issues which are emerging in the specifics of the outsourcing contracts we are administering are of relevance to the broader outsourcing initiative and to broader industry development programs being administered by the branch. So we have internal mechanisms to ensure that there is a flow of information to better inform future contract negotiations and the like.

CHAIR—How do you know that the commitments entered into by the prime contractors are the maximum which they can commit to in terms of Australian content?

Mr Sutton—The commitments in the contract are those which were offered in their bids in the original assessment process—

CHAIR—You said ‘offered’?

Mr Sutton—That is correct.

CHAIR—So it is not a negotiated outcome? Does someone sit down with the contractor and say, ‘We want 20 per cent of this contract to be locally sourced’—or 50 per cent or 10 per cent or 5 per cent?

Mr Kennedy—The contractors are aware that it is a competitive process, and an important part of the evaluation is their industry development offering. We believe that that is the way in which their offering would be maximised to win that component of the bidding process.

CHAIR—You assume it is a true market out there?

Mr Sutton—The nature of the process under the pre-Humphry report regime was, as Floyd has said, a competitive process. So, as I say, the commitments that are built into the agreements reflect the outcomes of that competitive process.

CHAIR—But that is an assumption that they have maximised what can be done locally. You do not actually test that, do you?

Mr Sutton—The commitments written into the agreements are those which, at the end of the overall evaluation of the bids, are—

CHAIR—The best that were offered?

Mr Sutton—the best in terms of the overall contract, remembering that the ID is only one part of the overall contract evaluation.

CHAIR—Yes, that is what I was coming to. What influence does the ID commitment have in the assessment of the overall contract?

Mr Sutton—In the pre-Humphry system, the process which led to the award of the existing five contracts, essentially there was a two-envelope system in place. The evaluation process was structured so that there was a services evaluation and an ID evaluation. Under the evaluation framework that was established, those two sides were evaluated separately and independently, and there was a probity auditor in place to ensure that that separation was in place. Each team made separate evaluations and recommendations, and they came together in the options committee, which decided on the final recommendation that was made to the Minister for Finance and Administration.

CHAIR—Are you saying that in some contracts the overwhelming influence might have been the service side of the contract and in other contracts it might have been the industry development side? Or was a weighting given to two envelopes?

Mr Sutton—That is probably a question that would be more appropriately directed to OASITO, because we did not have any—

CHAIR—Weren't you involved in some of these options?

Mr Sutton—We did have a representative on the options committee, but how the overall process came together was not our department's responsibility. I would suggest it is a question better directed at OASITO.

CHAIR—Okay. What industry development initiatives are you planning for the post-Humphry environment?

Mr Sutton—We are in the process of developing the new framework. As I mentioned, Senator Alston has indicated that we are consulting with agencies, with industry associations and with individual firms in the development of that framework.

CHAIR—What process is going to be used to do that?

Mr Sutton—We have been consulting. We are pulling together both the views that have been expressed by the people we are consulting and the views about industry development that Mr Humphry included in his report to the government.

CHAIR—Have there been any collective discussions between agency heads, industry associations and companies?

Mr Sutton—What do you mean when you say collective discussions?

CHAIR—Have you got them all around a table and talked together about what is achievable, possible or desirable?

Mr Sutton—We have certainly had roundtable discussions with the AIIA and its members. We have not got agency heads around a table, but we have certainly had a number of individual discussions with agencies. We will be integrating the results of all those consultations.

CHAIR—When do you expect to have this new framework developed?

Mr Sutton—I cannot give you a definite answer on that, but I would be reasonably confident that at some stage within the next month there will be something in the public domain about the shape of the new framework.

Senator LUNDY—In the report entitled *IT outsourcing initiative: 1999-2000 industry development progress report*, what benchmark or baseline levels of participation by SMEs with government contracts were used in the reporting of the outcomes, particularly those prior to the IT outsourcing initiative?

Mr Sutton—All the statements of outcomes relate to the commitments that were given in the contracts; all those commitments and the outcomes relate to additional work that has been generated by the initiative.

Senator LUNDY—Sure, but that is not the answer to the question I asked.

Mr Sutton—Effectively no benchmarking was done prior to the implementation of the initiative. Partly that reflected that no relevant figures were available at the time that would have assisted in such a benchmarking process.

Senator LUNDY—What do you mean ‘there were no figures available’?

Mr Sutton—No data collection of that sort was available at the time.

Senator LUNDY—By whom, though? The departments and agencies knew those figures.

Mr Sutton—No prior work had been done that was utilised in the establishment of the framework. To my knowledge, there wasn’t any data collection of that nature put in place prior to the initiative being implemented.

Senator LUNDY—Obviously I could not find any relationship between the data provided in this report and the situation leading up to the IT outsourcing initiative. Are you in a position to make inquiries now and establish the proportion of IT related infrastructure and services outsourced prior to the government’s program being put in place?

Mr Sutton—I would have to take that question on notice.

Senator LUNDY—I am happy for you to do that. Are you aware that it has been suggested, certainly publicly and within agencies and departments, that a significant proportion of their IT requirements was outsourced, or selectively sourced, prior to the program being implemented?

Mr Sutton—I am not aware of that specifically, but certainly it would be my expectation that some outsourcing, at least, had happened of some scale before then.

Senator LUNDY—Whilst the figures contained in this report are couched in terms of being additional and bonus outcomes because they do not compare to any pre-existing state, we can reasonably assume that it is not all new outcomes—that there would be some offset of the pre-existing conditions, which would put this in rather a more realistic light. Do you think that is a fair observation?

Mr Sutton—The only comment I could make is that the outcomes report provides information on the outcomes that were achieved in relation to the commitments that were made in relation to these contracts. That is the basis on which the report has been prepared and the basis on which we monitor the five contracts that have been let so far.

Senator LUNDY—So when you compiled this report and you say that all these new jobs have been created, you cannot say unequivocally that they are jobs that were not being performed previously under the previous system by previous outsourcing contractors?

Mr Sutton—No, what we can say unequivocally is that those are the jobs that have been generated by these specific contracts.

Senator LUNDY—Sure, but you cannot identify what jobs have otherwise been lost as a result of being replaced by this program.

Mr Kennedy—I think the department really only recognises new jobs—the jobs that are created through the out-of-scope activities which are not related to the services. So, sure, when a provider comes in they are replacing the jobs that existed by the in-house people. But in relation to the out-of-scope activities, which are new projects—

Senator LUNDY—That is a different issue again. I will come to the out-of-scope issues. I am talking primarily about the in-scope relationships here. In this report, every job, down to minute detail, has been scraped together as being provided by an SME, or the proportion of their contract. I think I have got the answer I am looking for, so I will not persist. They cannot be stated as being new jobs in that industry per se because they in fact replace previous and pre-existing arrangements that may or may not have involved subcontractors and SMEs to a greater or lesser extent.

Mr Sutton—As Floyd has pointed out, the outcomes there, the jobs that are specified, are for the out-of-scope initiatives. Partly in recognition that there was some transfer of jobs, we do not attempt to identify new jobs resulting from the in-scope initiatives.

Senator LUNDY—Sure, I take that point. In terms of those in-scope initiatives, you identify proportions and percentages of contracts that are attributed. Are those percentages attributed because of the dollar value and proportion of dollar value of those contracts and their related subcontracts, or are they actually based on job figures?

Mr Sutton—These are for the in-scope initiatives?

Senator LUNDY—Yes, so we are talking about the subcontractors specifically engaged as part of the process.

Mr Sutton—The in-scope figures for Australian value add and payments to SMEs are certainly percentages of the total dollar values of the contracts.

Senator LUNDY—In terms of Australian value add and payments to SMEs, can you just describe to me specifically what is meant by ‘Australian value add’ in the in-scope arrangements?

Mr Sutton—The Australian value add is the services that have been provided under the contract, less the value of any component which is imported.

Senator LUNDY—As provided by the prime contractor?

Mr Sutton—That is correct, yes.

Senator LUNDY—So you do not include within the Australian value add those disaggregated figures being derived by the subcontractor participants?

Mr Kennedy—There is some coverage of that in the contracts, and that would be reported on.

Senator LUNDY—But in that Australian value add proportion, or as a subset of payments to SMEs?

Mr Kennedy—That particular number would be an aggregate through the entire contract. However, it does go to an element of detail in the contract in relation to the particular providers and what the Australian value add for that particular provider or that particular service is.

Senator LUNDY—When you say it is 80 per cent or whatever the figure is for the various contracts of Australian value add and payment to SMEs, what is your calculation in bringing those two figures together to come up with that percentage?

Mr Kennedy—It is an aggregation of the reports provided by the contractors.

Senator LUNDY—By the contractors themselves?

Mr Kennedy—The audited reports, yes.

Senator LUNDY—In providing that figure to you, do they calculate the Australian value add across their subcontractors and their own procurement?

Mr Sutton—That is correct, yes.

Senator LUNDY—And then they add to that the payments to Australian subcontractors?

Mr Sutton—That is an integral part of the calculation, yes.

Senator LUNDY—If they draw some figures from the Australian value add component and then add the subcontractors' payments to consolidate that figure, doesn't that imply that there is a bit of double dipping going on?

Mr Kennedy—The subcontractor content is not counted as 100 per cent Australian value added because they are an Australian firm.

Senator LUNDY—It is?

Mr Kennedy—No, I am saying it is not. So it would be a build-up from the particular subcontractors into the aggregate arrangements. If an input was zero per cent Australian value add, that would be reported as such, and therefore \$100,000 worth of contract would have no Australian value add in it.

Senator LUNDY—Even if it was provided to an Australian SME?

Mr Kennedy—I think the circumstances where you could have zero Australian value add would be if you had reselling of imported products, and that gets no credit in this arrangement at all.

Mr Sutton—I should explain that AVA and payments to SMEs are different concepts. There is certainly, as you say, overlap between the two, but we do not regard that as double dipping—it is taken into account in determining the overall figures. They are measuring different things, but we recognise that some of the things which account for AVA certainly account for payments to SMEs as well.

Senator LUNDY—I guess I am trying to understand exactly what it does mean and how those figures were consolidated, given that we have asked for the individual reports from contractors and they have not been provided as yet. Where are we with that—are they forthcoming?

Mr Sutton—You asked that question at the last estimates hearing. We are close to finalising a response to that question. Prior to its lodgment, I would prefer not to go into the details, but I am obviously happy to discuss it with you afterwards.

Senator LUNDY—We look forward to your formal response to that question. It seems to me that we will only be able to discern the disaggregated figures between AVA and payments to subcontractors by perusing those individual reports and trying to come to some understanding

of where the department has derived the figures from. It seems to me that the greater proportion of ID outcomes from this contract is derived from the out-of-scope outcomes. Can you tell me about your method—and I know Senator Campbell mentioned this before—and how you cross-reference and check that those out-of-scope arrangements are actual outcomes?

Mr Sutton—The figures in the annual reports for both in scope and out of scope are audited according to Australian accounting standards. Sorry, could you repeat the question?

Senator LUNDY—I am looking at what your accountability regime is for the out-of-scope arrangements. I am aware that the companies have to provide an audited report to you. They are the reports we were just discussing. Do you go beyond the receipt of that report in terms of checking that those outcomes are achieved?

Mr Sutton—Certainly the key accountability document is the annual report. As Floyd has mentioned, there have been numerous occasions when staff have visited some of the out-of-scope initiatives to see how they are progressing and to talk to people involved in those initiatives. The annual report as it is, with the in-scope stuff, is the key accountability document.

Senator LUNDY—I will come back to that. Going back to the in-scope achievements, I notice in attachment A of the report that there are payments to SMEs in percentage terms in the various groups that have been reported on. Is the percentage achieved a commitment of what the contracts said they would pay to SMEs?

Mr Kennedy—Yes. The ‘payments to SMEs’ percentage relates to the extent to which they met their target. If it says 84 per cent, it means that they were 16 per cent short of their SME target. If it was 120 per cent, they were 20 per cent over.

Senator LUNDY—So unless it is 100 per cent at least they have not met their target?

Mr Kennedy—Exactly.

Senator LUNDY—Because payments to SMEs are done on an annualised basis, is there the opportunity for the vendors to delay or bring forward payments to SMEs that could in any way, shape or form have an impact on that figure?

Mr Kennedy—The reporting is on an accrual basis, so it recognises only the sales that have actually been recorded to an SME. It is not a cash pay system whereby you could pay someone early or withhold payment to wash, if you like, revenues from one period to the next.

Senator LUNDY—Based on that theory of accounting, those figures should not vary too much from year to year, should they?

Mr Kennedy—Providing that sales were the same.

Senator LUNDY—They would know that if it were on an accrual basis. Why would that vary?

Mr Sutton—It would still vary, depending on the nature of the timing of contracts that were let.

Senator LUNDY—Why?

Mr Sutton—It is a five-year contract. There will be varying needs for SME involvement at varying times over the life of that contract. Those figures could change quite significantly, even on an accrual basis, depending on the nature of the contracts that needed to be let at a particular stage in the life of the contract.

Mr Kennedy—For example, if there were a desktop provider SME and an agency had a large roll-out in a year and was not to have one for another three years, the SME percentage from one year to the next could vary quite a bit.

Senator LUNDY—So what you are telling me is that, for group 5, Advantra, payments to SMEs in percentage terms are listed at 400 per cent, which is four times what the target was. Given that a significant part of the group 5 contract has been the implementation of their standard operating environment and so forth, is it reasonable to assume that there were significant outlays to SMEs with that rollout and that that could diminish significantly in terms of their commitment over the next few years? Do you see what I am saying? Or does the target actually shrink next year because they are not implementing any standard operating environment then?

Mr Sutton—Certainly the commitments that each company gives are defined on a year-by-year basis within the contracts. Say, for example, that the contract had been negotiated on the basis of a substantial desktop rollout in year 3, and it turned out that the company in fact had to have that rollout in year 1: it could have exactly the sort of implications that you are talking about.

Senator LUNDY—Which was kind of what happened with group 5, wasn't it?

Mr Sutton—Yes. I am not aware of the detail but certainly that sort of scenario is quite likely. As I say, we have the variation mechanisms in place to allow for the commercial reality that what was envisaged at the start of the contract may not necessarily apply.

Senator LUNDY—I would just like to take that a step further, and I appreciate that I am getting into the area of the hypothetical now. If, in the second or third year of that contract, the commitment is way less in terms of payments to SMEs—it might be 10 times less, for example—provided that that was the commitment given by the company at the start of the contract, that percentage figure of target achieved might well still be over 100 per cent, despite a vast difference in actual expenditure on SMEs.

Mr Kennedy—I suppose that, in a non-hypothetical environment, most of the SME content within the contracts, across the five years, would be reasonably smooth. There is some—which I suppose reflects an element of base services and an element of rollouts or whatever—up and down movement to reflect activities, but they do not really go from zero to 50 or anything like that.

Senator LUNDY—My point is that we do not know because all we are given is a percentage of targets achieved. We are not given the baseline details of what is provided for as far as those ID commitments are concerned because we do not get the whole of these reports. So we can see 400 per cent of targets achieved and still have little idea of the direct benefit going to SMEs in dollar terms and in real terms.

Mr Sutton—Certainly there is the potential for variation within the years, but, underlying it, the overall commitments—which are the figures that are public and that Senator Campbell referred to as coming out of the highlights about the nature of the commitments—are over the life of the contracts. We administer the contracts so that, when we are looking at potential variations, the guidepost is always those overall commitments over the life of the contracts.

Senator LUNDY—How do you know out-of-scope commitments were not going to be done anyway by the external service providers or the vendors?

Mr Sutton—The evaluation framework that was put in place specifically required that any initiatives put forward for inclusion as out-of-scope initiatives in a contract be additional.

Senator LUNDY—Additional to the contract, is that what you are saying?

Mr Sutton—No, additional in the sense of projects that would not otherwise have been going to be implemented by the companies concerned. So in effect the framework envisaged required there to be a clear connection between the out-of-scope initiative and the winning of the contract. Last year, to supplement that system, we put in place a projects register.

Senator LUNDY—That was my next question: how does the ID projects register fit with what you have just told me in that it allows companies to identify projects in advance for assessment as part of their ID commitment?

Mr Sutton—The reasoning behind the register was a recognition, in effect, of the commercial realities that faced particularly multinational companies and timing of investment.

Senator LUNDY—What does that mean?

Mr Sutton—In terms of needing to bring together all of the factors that were necessary to achieve a decision by a multinational to invest a certain amount in Australia and the difficulty of coordinating that with a specific IT outsourcing contract.

Senator LUNDY—You have completely lost me. Perhaps we should start with some basics. Can you tell me the process by which projects can be registered on the ID project register by multinationals?

Mr Kennedy—There is a set of guidelines and a format that companies have to provide information on on a particular project. That is submitted to the department. The department makes an assessment of it, including an element of additionality. Companies accept that the evaluation taken by the department at that time is not a reflection of the way that the project would be evaluated in an IT outsourcing contract environment. If we believe that the project is

additional and represents industry development, then we will put it onto the project register and notify the company of such.

Senator LUNDY—Then that project on that register can count towards a few, for want of a better description, brownie points when their ID commitment is being assessed for a potential bid for an IT outsourcing contract?

Mr Kennedy—The companies can include elements of all of the project in their industry development bid for a contract in the future. We have said that, in relation to activity, that has already been carried out. While there will be some credit for it, naturally it will not be included in the ID plans of the forward looking documents.

Senator LUNDY—So how does the additionality test apply in terms of the out-of-scope commitments given when what you are effectively describing removes the additionality aspect of the project they are seeking to get brownie points for?

Mr Kennedy—I suppose the companies have identified, as one of the benefits of the purchasing leveraging arrangements that exist in the IT outsourcing, that it gives them significant coin to go to their either global or regional headquarters—the Australian operation—to get activities a place in Australia. The additionality in relation to the project register would be an environment in which a local operation has gone to their regional or global headquarters and said, ‘We need some projects in Australia to be able to get in the playing field in relation to the government’s outsourcing program.’ It gives them significant negotiating leverage to get the projects in Australia. They are the kinds of projects that we have seen on the register.

Senator LUNDY—How does it work when you have Australian companies actually tendering for these IT outsourcing contracts? What is the requirement for non-multinational organisations in providing an IT commitment as part of this project? Do they have to fulfil similar requirements for similar tests?

Mr Kennedy—I suppose the best example of that would be like IPEX group 8, whose Australianness and SME-ness was more or less enough to get them over the line in relation to the industry development requirements.

Senator LUNDY—But they were required to submit a separate ID plan?

Mr Kennedy—They were required to submit a separate ID plan which—

Senator LUNDY—So how did they clock up brownie points using the ID project register? How does that affect their competitiveness in the scope of industry development with multinationals which have obviously got a far greater degree to start clocking up brownie points so they get these contracts?

Mr Kennedy—Who they are gives them the competitive edge in relation to the industry development framework.

Senator LUNDY—Does it? Can you show me criteria where that is actually measured against the other aspects?

Mr Kennedy—The IT outsourcing criteria give significant credit to SME involvement, for example, in a particular context or Australian involvement in contracts. By the nature of who they are, their characteristics give them a significant advantage in relation to that element of the process. There is nothing to stop them from putting projects on the register.

Senator LUNDY—Can you provide us with the guidelines that stipulate how that is actually calculated in terms of your assessment of industry development, given that it is a two-envelope process? I think you are right: IPEX is probably the best example, but there is another out there claiming it is Australian—this being Advantra. What requirements were they required to fulfil under the ID aspects? Could you supply some documentation or guidelines where you can demonstrate how they are measured against some of the multinationals who, by virtue of who they are and this ability to clock up all sorts of projects, can perhaps demonstrate the creation of more jobs in some circumstances?

Mr Sutton—I do not want to avoid the question, but OASITO has responsibility for the evaluation frameworks under the pre-Humphry regime. So we are not in a position—

Senator LUNDY—I do not accept that answer, because OASITO tells us that you are responsible for evaluating the industry development aspects of the contracts and you report to them. So I deduce from that that it would in fact be you who would do the comparative analysis between the ID aspects of those bids and you would provide that information to OASITO.

Mr Sutton—It would probably be an appropriate time for me to clarify an answer which OASITO gave to this inquiry.

Senator LUNDY—They occupy a lot of their time clarifying their own answers, so you may as well join the fray!

Mr Sutton—There was a supplementary question the secretary to the inquiry sent to us for any comments. In one of their answers, OASITO indicated DCITA was responsible for drafting the evaluation report on the ID side. In fact, as I mentioned earlier, our role in the evaluation was to provide two officers to the industry development evaluation team, IDET. That team was headed by a consultant who was appointed by OASITO. It was that team that was responsible for preparing the industry development evaluation report which was considered by the options committee. The evaluation framework under which the IDET operated is not something DCITA had a role in.

Senator LUNDY—Then we are talking to the wrong people again, aren't we? This is happening a lot in this committee. This is no reflection on you personally, Mr Sutton, but I would like the committee to note that this is not the first time we have been misled by previous witnesses.

CHAIR—There are more flick passes than in a game of Australian rules.

Senator LUNDY—Can you take on notice to provide this committee with the evaluation criteria prepared by that team which included the consultant from OASITO and yourselves?

Mr Sutton—As I say, I think the question is more appropriately directed to OASITO, but we will talk to OASITO about it.

Mr Kennedy—We do not have the documentation in relation to the evaluations. The industry development evaluation team conducted its activities independent of the department. There were departmental officers on secondment involved in the evaluation, but the evaluation occurred in a tender lockup situation in the OASITO building. In relation to our evaluation methodologies and the like, we do not keep them in the department. In fact, we were not allowed to remove that type of documentation and the evaluation materials, tender bids or anything from the actual room in the OASITO building. So we would not have that kind of documentation in the department.

Senator LUNDY—What did you actually prepare for that team on that evaluation? What was your role, if any, in providing any comparative analysis between bids?

Mr Kennedy—The officers that were involved in the evaluation team did that analysis. There was an analysis of the bids individually, a clarification process with the various contractors and an assessment made ultimately as to the rankings.

Senator LUNDY—What you are telling me is that DCITA's IT industry development branch—that is your title—does not in fact make determinations or decisions in relation to IT industry development in association with these contracts. Is that what you are telling me?

Mr Sutton—Our role was to provide officers to the evaluation team. Also, a DCITA representative was on the options committee which formulated the final recommendations for the minister.

Senator LUNDY—Okay. But you do not do that work, even though you are called the IT industry development branch?

Mr Sutton—Our key role in the process is monitoring and administering the contracts.

Senator LUNDY—In other words, you do not provide that role.

Mr Sutton—We did not have a direct input into the evaluation process, apart from having a representative on the options committee.

Senator LUNDY—Have you complained about that or expressed a desire, as the IT industry development branch of DCITA, to actually have a genuine role in the industry development directions?

Mr Sutton—Our role was defined by the framework that was established with the outsourcing initiative. We considered that that role gave us a very significant input into the ID outcomes that were achieved under the initiative.

Senator LUNDY—Did they, though? I am at a loss as to how you can say you had significant input and some role in it when you have just said that your role is a monitoring one

and that you did not have much input because the evaluation criteria were effectively prepared by OASITO, albeit with a few secondments from DCITA. It seems you are contradicting yourself, Mr Sutton.

Mr Sutton—The role that we had was on the evaluation side. As I say, we have got full responsibility for monitoring the ID elements of the contracts. We regard the role we had on the evaluation side as significant in the sense of driving good industry development.

Senator LUNDY—But you cannot answer any questions about it, so how can you argue that you had a significant role? You are sitting here saying, ‘We can’t answer that. It is OASITO and the ID team over there that did it.’ I do not accept that you had a significant role when you cannot answer any questions about it.

Mr Sutton—The reasons we are unable to answer some of the questions is in terms of actual line responsibilities for the process and where the process was located, as opposed to the extent of input which we had into that process.

Senator LUNDY—I still cannot see evidence of significant involvement in establishing the direction. It does relate to questions asked earlier by Senator Campbell about the actual role of the IT industry development branch in any IT industry development whatsoever. Traversing back over something you mentioned before, do you monitor the Partnerships for Development program as well?

Mr Sutton—Yes, we do. We administer the PFD program.

Senator LUNDY—What are your thoughts on the relationship between the ID requirements of the IT outsourcing contracts and the existing Partnerships for Development?

Mr Sutton—The relationship between the IT outsourcing initiative and the PFD program was an issue that was commented on by Mr Humphry in his report, because, the way the ID aspects of the outsourcing initiative were implemented, anything that was included in a PFD agreement was not allowed to be counted for outsourcing purposes. Mr Humphry and a number of the industry groups that we have been talking to in this phase of developing a new framework have commented that there are implications in trying to come up with an overall strategic approach to industry development as opposed to the outsourcing approach, which tied particular activities to particular contracts. That is an issue that we are very conscious of and that we are looking at closely in the context of developing a new framework.

Senator LUNDY—Are the industry still lobbying for PFD arrangements to be allowed to be counted as part of their ID commitments?

Mr Sutton—I would not be as specific as that. I think the comments or the views are more general, in the sense that what they are commenting to us about is the desirability of enabling them to consider investments in Australia in a more strategic context.

Senator LUNDY—Is it within your jurisdiction as the IT Industries Development Branch to make decisions about the strategic direction and relationship between PFD and the ID requirements of the IT outsourcing contracts?

Mr Sutton—It certainly is. It is fair to say that the new framework for outsourcing inevitably has overlaps with all the government procurement related industry development programs which we administer. So it is not just PFD; it is ESA, it is also the legislated requirements under the Telecommunications Act for carrier industry development plans. We are certainly looking at all those programs in terms of the implications of the post-Humphry regime for the other programs which we administer.

Senator LUNDY—I want to get this very clear because I do not want to come back next estimates and ask you about the changes that are taking place and have you tell me that that is something that NOIE is looking after.

Mr Sutton—All those programs are our responsibility.

CHAIR—NOIE has got the strategic plan.

Senator LUNDY—I know NOIE has the strategic plan. That is why I am asking this question right now, because I am going to read it out to you next estimates to remind you.

Mr Sutton—We are consulting with NOIE in the development of the new framework because necessarily we need to put what we are doing with outsourcing, PFD, ESA, CIDPs and any other acronym you care to name—

Senator LUNDY—Can you spell them out for me so I can remind you of all this very specifically?

Mr Sutton—Partnerships for Development, endorsed supplier arrangements, carrier industry development plans.

Senator LUNDY—Are there any FTAs left?

Mr Sutton—We have got rid of one acronym at least: FTAs have been rolled into—

Senator LUNDY—Fixed term arrangements?

Mr Sutton—Yes. They were a subset of PFD type arrangements. They have effectively been rolled into PFD agreements, so there is only one acronym in that connection. We are talking to NOIE about the need to fit the post-Humphry framework into the overall strategic approach the government is taking to industry development.

Senator LUNDY—Are endorsed supplier arrangements within your scope?

Mr Sutton—ESA is administered by the Finance and Administration portfolio—

Senator LUNDY—Aha! I knew there was an issue there.

Mr Sutton—but we are involved in the IT industry development aspects of the ESA scheme. ESA, as you may be aware, covers not just IT; it covers as well other aspects of government procurement. We are involved with DOFA in reviewing the ID credentials of IT companies.

Senator LUNDY—In the same way that you are involved with respect to the ID outcomes, or have you actually got some real power?

Mr Sutton—We have the ability to recommend to DOFA that companies be disendorsed from the arrangements if they are not meeting their ID credentials.

Senator LUNDY—So you have a monitoring role and a reporting back role.

Mr Sutton—We do.

Mr Kennedy—And an evaluation role in relation to the ID credentials. If a company applies for admission to the endorsed supplier arrangements, they provide information in relation to their industry development activities and we evaluate that.

Senator LUNDY—And you provide a report back to DOFA?

Mr Kennedy—That is correct.

Senator LUNDY—Can you provide the criteria on which you assess participants in the endorsed supplier arrangements?

Mr Sutton—That should not be a problem.

Senator LUNDY—Can you also take on notice how you conduct your assessment of their performance? In fact, can you do that for all of the telecommunications industry development ones as well?

Mr Sutton—The carrier industry development plans, which are a requirement in the Telecommunications Act.

Senator LUNDY—Yes, the industry development ones, which I have already asked for on notice, but also the same question on notice for the ESAs.

With regard to the actual figures contained in the report that was circulated and the accompanying advice by the minister, we knew, by virtue of previous evidence, that at least one of the contractors was late in submitting its ID report to you.

Mr Sutton—That is correct.

Senator LUNDY—That was Advantra?

Mr Sutton—That was Advantra.

Senator LUNDY—Can you tell me how late they were in their submission and what penalty was applied to that company for being late?

Mr Sutton—I cannot recall the precise date. I think they lodged their report in early December, but I will check on that and if necessary take that as a question on notice. There are no sanctions in the contract for late lodgment of the ID reports.

Senator LUNDY—In other words, we all had to wait that extra time whilst Advantra got their act together and you were able to do the compilation?

Mr Sutton—Yes, indeed.

Senator LUNDY—And yet there was no penalty?

Mr Sutton—There is no penalty under the contract. We have been in discussions with Advantra and made it clear to them our expectation that future reports will be lodged on time.

Senator LUNDY—In terms of the actual IT outsourcing contracts, the scope varies: some of them include telecommunication services, some of them include applications and so forth. Do you differentiate in any way between the different scopes of those contracts in reporting back on ID outcomes—that is, do you disaggregate it or is it in the reports the companies provide to you? For example, I am referring to the Australian component of applications as opposed to infrastructure—that kind of disaggregation.

Mr Kennedy—I am not aware of that.

Mr Sutton—I am not aware of that either. We could take that one on notice. As to the report against their commitments and the extent to which we disaggregate those commitments, I am not in a position to say this morning.

Senator LUNDY—You could take that on notice. There seems to be the same percentage of target achieved for total regional employment in both in-scope and out-of-scope agreements. I am interested in the underlying preparation of those percentages and the underlying figures. From memory, an actual person figure was provided in the report.

Mr Sutton—For regional employment, yes, there was.

Senator LUNDY—Can you tell me the actual method of collating that again or whether or not you just take it on face value for the reports provided to you by contractors?

Mr Sutton—Again, the key accountability document is the annual report from each company, which is subject to independent audit.

Senator LUNDY—And then you could always go for a wander in and check out the premises. Have you ever done that?

Mr Kennedy—Case officers have visited various facilities around the place just to get an experience of what is occurring. I suppose in relation to the receipt of any report, there is an analysis of it—that is, does it ring true with our knowledge of what is occurring?

Senator LUNDY—Some jobs were created on a temporary basis for those vendors. Perhaps I should get away from the regional specific ones and just talk about the general job creation claims in these companies. If those jobs only exist for a period—that is, three or six months—how do you address that in your reporting?

Mr Kennedy—The reporting is based on full-time equivalents.

Senator LUNDY—Over a 12-month period?

Mr Kennedy—Correct.

Senator LUNDY—Is this report for the financial year 1999-2000? We are coming up to the end of the next one anyway. If jobs were lost by any of those vendors, would that be reflected in their reports to you?

Mr Kennedy—Yes.

Senator LUNDY—Will they have to be job losses that the vendor chooses to attribute to this particular contract? What if they are job losses that they could argue are attributable to somewhere else? How do you deal with that?

Mr Kennedy—I think that is part of the auditing process. In relation to out of scope activities, there are specific activities which the jobs are related to. In relation to in scope, I think it is part of the auditing process to ensure that the jobs are claimed for a particular contract and that is, in fact, a contract that these particular people were working on.

Senator LUNDY—So, first, it would depend on how it was reported in the annual report by the company; second, on the view of the auditor and the auditor's assessment as to whether or not that stacks up; and, third, whether you then accept that auditor's assessment?

Mr Sutton—I might just mention that, in answer to a previous estimates question on notice, we supplied a breakdown of the employment locations showing where the jobs were located.

Senator LUNDY—Yes, I remember seeing that. I got that the day after this report was released, in fact, which was not lost on any of us.

Mr Sutton—The commitments in terms of regional jobs are specific to each of the initiatives which aids the auditability of the job numbers.

Senator LUNDY—When we hear of EDS laying people off, or IBM laying people off in different areas, that may or may not show up in terms of these reports?

Mr Sutton—Depending on whether it is an initiative for which they committed to numbers for the purpose of the tax office contract.

Senator LUNDY—I guess the point I am getting to is that these outcomes are not necessarily reflective of the state of health or growth of that particular company and its presence here in Australia.

Mr Sutton—No, that is right. It relates to the specific commitments under the contract.

CHAIR—Time is getting away from us and there are a number of issues which you have said you will take on notice and get back to the committee on. We did write to you from the committee in respect of DOCITA's input into the outsourcing process. When can we expect a response to that correspondence?

Mr Sutton—Which correspondence was that?

CHAIR—From the committee, which was sent—

Mr Kennedy—Clarification of the OASITO questions taken?

Mr Sutton—I can provide that now. I answered it in part earlier, but I will provide a bit more.

CHAIR—Can you table the response now?

Mr Sutton—I could take it on notice or I could talk to it now. I have some notes, but they will not be appropriate for tabling at the moment.

CHAIR—Are you planning to put it in writing?

Mr Sutton—The letter we got from the secretary advised we could provide it orally or in writing. We would be more than happy to provide it in writing to the committee.

CHAIR—Yes, I think we would probably prefer it in writing and obviously as quickly as it can be done.

Mr Sutton—Certainly.

CHAIR—Thank you, Mr Kennedy and Mr Sutton.

Proceedings suspended from 1.08 p.m. to 2.07 p.m.

DURIE, Mr Rob, Executive Director, Australian Information Industry Association

LARSEN, Ms Bridget Anne, Legal and e-Policy Manager, Australian Information Industry Association

ACTING CHAIR (Senator Eggleston)—Welcome. Do you wish to make an opening statement?

Mr Durie—Yes. We have about 400-member companies, we generate revenues of more than \$40 billion, we employ over 100,000 Australians and we have exports of over \$2 billion. You already have our submission to this inquiry and I believe you also have our submission to the Humphry review. I am happy to take questions.

ACTING CHAIR—Thank you. What did you say you generated in terms of earnings?

Mr Durie—About \$40 billion. That is our member companies; not the association, I hasten to add.

ACTING CHAIR—I understood that. It is very impressive.

Senator BUCKLAND—You say that it is an international association.

Mr Durie—No, it is an Australian association. We have members from both subsidiaries of multinationals and local companies.

Senator BUCKLAND—Is your company part of that association or do you represent the association?

Mr Durie—I am the chief executive of the secretariat.

Senator BUCKLAND—I just wanted to be clear in my mind about that. With regard to the association membership multinationals, can you give us an indication of the types—if you feel that you can, you might name the companies—and the sizes of the companies we are talking about?

Mr Durie—My recollection is that we have about 150 multinational members in the association. They range from the large outsourcing companies, such as IBM, EDS, CSC, Siemens Business Systems and so on, and all the product companies, both hard and soft, such as Compaq, Fujitsu, Oracle, Microsoft, et cetera—all the major international vendors covering hardware, software and services. On the domestic side, we have about 250 member companies, which are necessarily smaller. The largest is Telstra, which is quite large, but the others tend to be small Australian software companies. The largest is probably Mincom, which has revenues of about \$160 million a year.

Senator BUCKLAND—Do any of your member companies hold contracts with the government at the moment?

Mr Durie—Most. If you look, for example, at the IT outsourcing program, all of the primes but one and many of the subcontractors are members of our association. Generally speaking, for our member companies and for our industry generally, the government is the important market—anywhere between 20 per cent and 30 per cent of the total market. Most companies have some interest in the government market. I think we have just under 200 companies that actually have offices in Canberra—either headquarters or significant offices—targeted at supplying the federal government.

Senator BUCKLAND—What types of services do the subcontractors provide?

Mr Durie—It would vary from providing hardware, installing hardware, developing software to providing miscellaneous services such as network services or network maintenance—those sorts of contracts. It is right across the board. Even some of the large multinational companies are subcontractors inside the outsourcing program—as well as local companies.

Senator BUCKLAND—Do any of the companies do consultancy work for individual departments or agencies?

Mr Durie—Yes, certainly. If you like, the market is split in two. With the outsourcing program, there is still the traditional supplying direct to individual agencies or through the remnants of contracts to endorsed suppliers and so on, but certainly there are companies supplying consultancy services to individual agencies.

Senator BUCKLAND—Are you aware of any of those companies acting as consultants to verify the position of outsourcing that was arrived at by the agency and/or OASITO?

Mr Durie—I would not have followed it that closely. I know that a couple of companies do that sort of consulting, but I would not be aware of the actual role that they play.

Senator BUCKLAND—On page 3 of your submission you make the comment:

Some companies have also indicated that they are reticent to make a submission directly in response to the review. They are concerned that any direct criticism of the process may affect future dealings with the federal government.

What brought about a comment like that going into your submission? Is that something that has been discussed openly within the association?

Mr Durie—Yes. There is great reluctance on the part of companies to make direct submissions or even to provide any information to our association that might be able to be linked back to an individual company, so we went to great lengths to assure members of our determination to protect their confidentiality and to make sure that there was nothing in our submission that might identify an individual company. I have been with the association for about 11½ years, and this is the first time that companies have made such explicit and strong requests either to be excluded from the submission or to have their identity protected.

Senator BUCKLAND—Out of that, do I deduce that there is a degree of intimidation against possible tenderers?

Mr Durie—I think, as became apparent in the Humphry report and even in the Auditor-General's report, the atmosphere between OASITO, the agencies and the industry was confrontational, primarily because of the approach that Humphry identified as OASITO taking the view that nothing would happen unless they forced it through. There was quite a deal of tension between OASITO and individual suppliers and between OASITO and the association throughout the life of the IT outsourcing program.

Senator BUCKLAND—Without identifying the companies, could you give an indication as best you could as to the size of those companies?

Mr Durie—All sizes, all types.

Senator BUCKLAND—So it is across-the-board of your leadership?

Mr Durie—Absolutely, so some are the largest companies, some are the smallest companies and some in between. I suppose it comes back to the fact that there is always an air of tension in this environment between our industry and the government because of the critical role the government plays as a regulator in setting policy and as a buyer. And so suppliers are often cautious in what they say publicly in order not to antagonise the customer. But in this case it was particularly so.

Senator BUCKLAND—At any time in the development of the process for outsourcing or since then, has the association as a body been approached by the government for views on the outsourcing process or to review their process as an independent body?

Mr Durie—To the best of my knowledge, the only time we were officially approached for input was at the time when the government was considering the interaction between the IT outsourcing program and what is called the large contract arrangements, where there were special ID arrangements for IT procurements of more than \$10 million. We were called to a meeting with the IT group—I cannot remember the timing, so I am not sure whether it was when they were in the industry department or in DOCITA—and OASITO to talk about that issue.

Senator BUCKLAND—These views of intimidation—and they are my words, and I think it has been supported in your evidence—are they directed at OASITO or does it go beyond that? That is, who is your membership suggesting; who is intimidating them and forcing them to have this view that they might not score well if they—

Mr Durie—I think it is primarily OASITO.

Senator BUCKLAND—Your submission goes on immediately following that comment; I found it a bit concerning. It said that, if ICT companies feel that they are gagged from expressing their concerns in relation to the outsourcing initiative to an independent review committee, the likelihood of a full and informed discussion of issues leading to the opportunity of improvement are significantly curtailed. Are you suggesting to us that we may not be able to get the full story from IT companies because they would be intimidated? Or because they would feel that, if they were to gain a contract, or if they do gain a contract, they will be told, 'Well, you do not go opening your mouth about the arrangements.' Am I reading too much into that?

Mr Durie—I think you might be. I think Mr Humphry proved that, taking the right approach, he was able to have direct confidential discussions with the key suppliers, the key agencies and all the players in order to reach his conclusions. I think the concern that my members had in relation to our submission was that it was going to be necessarily public.

Senator BUCKLAND—On the tendering or bidding process, your submission is suggesting the existing tendering process is too complex, time consuming and costly: on what basis do you make that claim?

Mr Durie—The costs and the length of time. It is pretty clear if you look at the Auditor-General's report. The number for the government side in terms of the five contracts that were concerned in that report was \$40.38 million. A conservative estimate of the cost to industry is something short of that. Quite frankly, that is a very conservative estimate. So the administrative cost of those five contracts to government and industry is probably in the order of \$75 million-plus. I think anyone would agree that that is a substantial amount of money.

In terms of the time taken, at the time of the Auditor-General's review I think the program had been running for 3½ years and at that point only five contracts had been let, so we are talking about a very extended time frame. I think I was in this room when the parliament was assured that OASITO would finish its job by mid-2000—I think that was the original call, or it might even have been 1999—so the program went way beyond what was expected. There were extenuating circumstances, in that they found they had a much more complex job to do than was originally intended. There were just simple things, such as all financial and company information having to be resubmitted for every contract, yet the government already has all of that information through the endorsed supplier program, for which all companies have to supply all that information before they can even be registered to sell to government. So companies have to go through a lot of unnecessary and repetitive processes.

Senator BUCKLAND—You refer to the confrontational approach that was adopted by OASITO towards the agencies and the industry. It is a fairly strong statement. Exactly how do you come to that conclusion? Is it again through experience of your membership?

Mr Durie—And of the association.

Senator BUCKLAND—Do you know whether any of the agencies made approaches to any members or to the association to look at an alternative way of assessing their viability or readiness for outsourcing?

Mr Durie—Certainly from the industry's point of view we were going along with the government's program. I am not aware of any such approaches from the agencies. I imagine they were in the same boat: the government had made a decision at the highest level that this was how things were going to be. Certainly in the industry there is a very strong view that you do not fight city hall, particularly when they are a major customer.

Senator BUCKLAND—I have read through your entire submission and there are statements in there that are quite concerning. The criticisms may well be correct, but it is very difficult to really build on that unless we have very sound examples. I know that there are some comments by your membership in the submission. I am concerned about the intimidation—

Mr Durie—In terms of?

Senator BUCKLAND—Particularly concerning the intimidation that is being applied to IT companies or tenderers. It is a very strong statement. I am not in a position at this time to judge what my views on it are, but it is a very strong statement criticising the process and OASITO.

Mr Durie—I would not be able to comment on that without the permission of the individual companies concerned. If you like, we will go back to them. I understand a couple of companies have actually made individual submissions so they may well be able to comment on this point.

Senator BUCKLAND—Yes, I am sure there are a few that we will be asking about that. It is a worrying factor, in my view. If there is intimidation I am wondering what the reason for that is and whether in fact we are getting value for money. Your submission is suggesting to me that that may not be the case.

Mr Durie—Certainly in terms of the cost of the program I do not think the government is getting value for money.

Senator EGGLESTON—I notice you say in your overview that you support the Commonwealth's policy of outsourcing its information technology requirements but not the way it is being implemented, and you run through a list of points there. I would like to go to section 4 of your submission where you talk about the impact of the outsourcing initiative on industry. You say that it has been significant but negative. Would you like to run through those dot points on page 11 and flesh them out a little?

Mr Durie—This is our submission to the Humphry inquiry, not to this committee?

CHAIR—It is the submission to the Humphry inquiry.

Senator EGGLESTON—Yes, indeed.

Mr Durie—Certainly, I will run through them. I suppose I should preface these remarks by trying to characterise the situation before outsourcing. At that time, there were over 500 companies in the IT sector registered through the endorsed supplier program as suppliers to government. Most of those companies were, in one way or another, supplying IT goods and services to the federal government. The IT outsourcing programs adopted the clustering approach and made up much larger contracts. I do not have the number in my head but, when you add the number of prime contractors and their suppliers to the five or six contracts that have been let, it is a number significantly less than 500. Many suppliers found that agencies they had been supplying over many years were suddenly no longer open. They had been involved in a cluster, their cluster had been won by a competitor and therefore they found they had no more business with that agency. I think that was a very common experience. Generally, if the companies supplying into that basic IT infrastructure are not in the group—again, I am guessing but, from memory, I think about 35 companies are involved in the successful contracts—they have lost a lot of business.

Senator EGGLESTON—We heard from the Community and Public Sector Union—and it was also said in the Australian Customs Service's submission—that there were not enough

companies available to provide IT services to satisfy the government's demand for outsourcing. Is what you have just said an explanation for that, because you have also said there were 500 companies registered before this initiative was established?

Mr Durie—I am not sure in what context they were commenting, so it is a bit hard for me to say.

Senator EGGLESTON—The Customs Service, especially, claimed in their submission that—

Senator LUNDY—I am sorry to interrupt, Senator, but my understanding was that those comments were made about those companies with the capability to mount a prime contract bid, as compared with the number of participants at subcontractor level or, before this program was implemented, at prime contract level.

Mr Durie—At the time Customs went out, there would have been only two or three companies in that space; now there are three or four. But there is still a limited choice for contracts of that size. One of the benefits of the government's decision to go on a more functional or agency basis is that most of the contracts now will be much smaller and there will be a larger pool of potential suppliers.

Senator EGGLESTON—Thank you. There are still several other dot points for you to address.

Mr Durie—I have addressed the increased bid costs, and I think that point is pretty unarguable. The lower revenues flow purely from the fact that they are getting less business. With regard to the reduced manufacturing output, again, there were several companies that had been manufacturing equipment for supplying the government but, because they had been replaced by other suppliers and the cluster was having its ID requirements met in another way, they lost throughput.

I cannot give you examples there, because I would need the companies' permission to do that, but there are a couple of examples of hardware products. In one case, because they lost out on a couple of important tenders, their equipment was actually removed from the agency in question and replaced with new imported equipment. In another case an unintended consequence of the definition of an SME meant that a company which had been assembling PCs was essentially excluded from selling to the federal government.

As for SMEs losing direct contact, I talked about this very dynamic market of the mid-1990s, with 500 suppliers. If you looked around the IT scene in Canberra, even then there were many small companies who had very good businesses dealing directly with individual agencies. For any company now, because of the outsourcing program, to sell into the agencies in the clusters they have to go through the outsourcer. And one of the things that the companies really value is having that direct interface with the customer, both in terms of understanding what their needs are and negotiating price, service and so on. But now they have to go through a middleman. It is possible to work that through, and often in the private sector where there is an outsourcing arrangement companies seem to be more able to maintain dual relationships, one with the

outsourcer and one with the outsourcer's customer. My understanding is that that has been less possible in the government environment.

Senator EGGLESTON—Thank you. I now go to 5.2 in that submission, which is headed 'Development Activities'. You seem to be making the point that the outsourcing initiative has actually inhibited development in Australia. You say there that a company wanting to build a research and development centre in the Asia-Pacific region may decide not to locate in Australia, owing to the competition from other countries for industry development activities and the difficulty of fitting investment cycles in a fast moving market into a timetable dictated by the outsourcing program. Can you give us some examples of companies that may not have located in Australia because of difficulties of the kind you refer to?

Mr Durie—Perhaps not of companies, but I am certainly aware of a number of projects which went to Singapore and other Asian countries because the companies were not able to incorporate them in a timely way into a bid, the reason being that for the outsourcing program you could not commence work or make any announcement until after the government's decision and announcement of the successful tenderer. If you made any announcement then that industry development element was excluded. In fact, one company in the first cluster, cluster 3, ended up losing, I believe, most of its ID—and was an unsuccessful tenderer, obviously—because it actually announced what it was planning to do before the government announced the result of the tender. So what you had is a series of projects that might have happened in Australia but where in fact the companies were not able to put them on the table.

As a result of a number of those occurrences and some persistent pestering from the association, the government established what it calls a project register, or an industry development register, where companies could register existing or planned projects and get future credit for them in future bids. This was at least some attempt to recognise the problem, that in fact companies do not make investment decisions based on when the federal government is going to buy. If you think about the subsidiaries of the multinationals that are operating here, they are competing with subsidiaries of the same multinational in other countries for location of work. We often find that our member companies are looking for information from us in order to help them win an argument, say, with the Singapore office about where an investment should be made. This happens all the time.

Senator EGGLESTON—Do you think the different approach of now offering smaller contracts will assist in development activities?

Mr Durie—It depends how the industry development arrangements are determined and that is still up in the air. Certainly, our recommendation—and we have alluded to this in our submission—is that whatever happens in the context of IT outsourcing, industry development should be in the context of a much broader coordinated strategy to develop the industry here. I think that one of the downsides of the approach taken over last 3½ years is that there is almost a separation of broad IT industry development policy from IT industry development related to procurement.

Senator EGGLESTON—Would you say, however, that the existence of the outsourcing policy has the potential to encourage development of IT projects in Australia?

Mr Durie—There is certainly a role for government procurement leverage in industry development, whether it be outsourcing or other forms of procurement.

CHAIR—I have a couple of quick questions, Mr Durie. We had representatives from the industry development branch of DCITA here this morning. I asked them a number of questions about the issue of industry development and whether or not there was a broad strategic plan within the department. The answer I got I think sustains the comments you make at point 5 about industry development being ‘contract specific’—I think they are the words you used—rather than strategic. From their answers to the questions, it seems to be a very ad hoc arrangement that is going on. They did say that the National Office for the Information Economy was responsible for doing the strategic plan and DCITA have to fit into that. We have asked them for a copy of that—if there is such a thing in writing.

I was particularly concerned to try and find out to what extent there had actually been discussions with the industry in a broad sense about the outsourcing initiative and whether or not industry had expressed a view about the benefits that might derive to the local industry out of the outsourcing approach, or whether this was simply something done by OASITO, DOFA or whoever was responsible for putting the thing together and that the industry development side of it was consequential to that.

Mr Durie—This is going back to 1997?

CHAIR—Yes.

Mr Durie—Certainly AIIA was not consulted about the arrangements.

CHAIR—Were you aware of any consultations that took place around the industry? What is happening in terms of the post Humphry environment? They did indicate there that there was some discussions going along, although it does not appear that there are not any sort of round table discussion going on with the industry.

Mr Durie—We have had a number of discussions with the same group that appeared this morning. We have brought to that table players from all sides of the industry—local, foreign, hardware and software services—so it has been quite a diverse group of companies around the table. Those consultations are ongoing. We have raised concerns about the strategic context and suggested that NOIE actually take the lead because they have the strategic responsibility to set overall policy. How you deal with industry development in IT outsourcing should be part of that overall plan, not something that is dealt with on a program management basis.

CHAIR—Have NOIE been involved in any of these discussions? Have industry indicated to you that they are prepared to bring NOIE into the process?

Mr Durie—Certainly NOIE have not sat in on the meetings.

CHAIR—So you are not aware of whether they are briefing NOIE or whether NOIE are doing anything specifically in terms of this.

Mr Durie—I would bravely assume that they were, but I do not have any direct evidence.

CHAIR—This general view that you have just expressed about breaking this down into smaller segments which the local industry can absorb—I think you said that clustering excluded whole sections of the local industry from bidding—is not something that is new to your organisation. You made these submissions back in the mid-90s about discrete parcelling of the IT sources. That is a consistent view that the industry has held for a long period of time.

Mr Durie—We started lobbying for outsourcing in the very early nineties, if not before, for a number of reasons—primarily, it was for industry development; it was to give the industry more work. It was also because we saw government systems as being a huge potential market, particularly in the Asia-Pacific region, and the more the industry had experience in developing, managing and running government systems the better placed it would be to address that market opportunity. In our submissions, we were always aware of the tension between the desire of achieving maximum scale and the importance of allowing a range of different opportunities.

CHAIR—I think I read in one of the submissions by one of your members that the only way in which you could get genuine industry development out of this process was if the local companies actually got the task as a prime contractor and that that was where the real industry development would come from—not as a subsidiary contractor to the multinationals. Is that a consistent view of your association?

Mr Durie—I do not think it is a consistent view because some of the SMEs have benefited greatly as subcontractors and want to continue in that position. They do not have aspirations to be primes. So I think there are different slots for different companies. Certainly, if we want to have our own EDS IBM GSA, the only way to develop that is to give them business. When I say ‘give them business’, what they are looking for is the opportunity to win business on their merits.

CHAIR—In some of the evidence to this committee, we have been told that there is an oversensitivity to scrutiny by the committee, by ESPs and by tenderers, even though it has been made clear in the contracting stage that the contents of any contracts can be sought by the parliament. Is this a genuine concern of your companies, or is this something that OASITO is more focused on?

Mr Durie—There is certainly a genuine concern on the part of the companies, primarily about competitive information.

CHAIR—Competitive information.

Mr Durie—Yes. Their main area of concern is price, margin—those sorts of elements of the contracts. Certainly it is an issue that our members have raised with us consistently. So, on the one hand, they are aware of the rights of the parliament; on the other hand, they are extremely concerned about their competitors having access to their price book and how they run their businesses.

CHAIR—I can certainly understand that side of the issue being of concern to them, if it is a competitive advantage type issue. But the message we have been getting is much broader than that.

Ms Larsen—As Rob was saying, the sensitivity really is about the things that give companies their competitive advantage: the pricing and the solutions that they are putting together—their intellectual property. They are also very concerned about access to other customer data. I understand that there are some draft clauses for comment at the moment that DOFA have put forward. Our view is that they are proposing to have much broader access than is actually required and it would impose an unnecessary burden and cost on companies. It needs to be known up-front what is required, by whom and whom it is going to be seen by so that the appropriate protections can be put around it. One of the other concerns is that, if an independent auditor is appointed, they need to be somebody not in competition with that provider; for example, Accenture and Ernst and Young. Those are the sorts of concerns that are coming up and they are very real.

CHAIR—Why do companies that are members of your association see a real problem in this area, yet companies in a similar situation in the United States operating in government contracts do not seem to labour under these problems; yet all of those contracts are open and public.

Mr Durie—I confess that I am not an expert on the situation in the US.

Ms Larsen—If these companies know up-front what is going to be requested, what is going to be made public and to whom, and what kind of protections there are around that, it is going to give them some sense of security to be able to put into place appropriate arrangements.

CHAIR—If I understand what you are saying, Ms Larsen, companies are uncertain about the way in which the information may be treated or utilised or recorded?

Ms Larsen—Yes, and when and by whom it will be required. Some clear guidelines would help.

CHAIR—They want certainty in that area?

Ms Larsen—Absolutely.

Senator LUNDY—Just on that point, surely that is the responsibility of OASITO in these circumstances or, indeed, is described in contract itself. Has that been done in any of the contracts that you are aware of?

Ms Larsen—I think it has been raised. Certainly the confidentiality clauses are some of the most hotly debated and are often the last ones closed because they are so hotly debated. So, certainly, those issues are on the table to start with, but I am aware of situations where it has come up after the contract has started running and there are new circumstances where they want different information for different purposes. That is where it really causes concern.

Senator LUNDY—Do your members—at least, as far as you are aware—get their own legal advice about issues of confidentiality or do they rely on what they are told by the respective government agencies and departments?

Ms Larsen—I think it varies enormously between different members. Some of the larger ones obviously have significant in-house teams who are experts in these sorts of things or will

retain the expertise of external lawyers. Others are keen just to get on with the business—they cannot afford the external legal advice and just say, ‘Look, if I want the business, I’m going to have to sign it and live with it.’

Senator LUNDY—That is generally how it happens.

Mr Durie—It is a bit like unlimited liability.

Senator LUNDY—Yes. On the issue of the expectations of contractors entering into a commitment with the government, OASITO certainly have been the first to imply that there were demands by your members—by vendors—that their confidentiality be protected. To what extent are you aware of the demands of your members about having their rights protected? I am trying to get an insight into what has been clearly implied by OASITO. Obviously, it is almost a case of ‘enter at your own risk’ if your members preset terms and conditions.

Mr Durie—I am not sure are if we can comment on what they might have said to OASITO.

Senator LUNDY—No, not really on OASITO, but are you aware of strict confidentiality being a major issue for your members generally?

Mr Durie—In the areas we have talked about, yes, it is—in terms of pricing, solutions and so on. Where it started, in terms of whether this was an OASITO idea or an industry idea, I could not comment.

Senator LUNDY—Going back to an earlier response you gave about the pre-announced initiatives, where a vendor has pre-announced industry development related initiatives and it being cancelled out, what are your observations about the motivation of that and how it relates to the government’s ability to claim some sort of kudos or imprimatur about the industry development initiatives?

Mr Durie—In our cynical moments we have thought that was a prime motivator in the way that industry development had to be tied to the contract, had to be announced at the time, et cetera. We could not really understand any economic or development reason why they would take that approach. I cannot really speculate as to why they did, but it was certainly something adhered to extremely vigorously.

Senator LUNDY—You mentioned a company that did pre-announce initiatives and then lost their status as part of their industry development. Are you prepared or able to speculate on whether or not that made a difference to that company’s successful or obviously unsuccessful bid?

Mr Durie—They did not make a successful bid.

Senator LUNDY—They did not get the job.

Mr Durie—I assume that the low score they would have got on industry development would not have helped them, but I was not privy to the selection process. It certainly made that

company and others reconsider what their approach was going to be. Quite frankly, many companies decided they did not want to be in the game as a result of that—they were going to be subcontractors only and not be a prime and so on.

Senator LUNDY—So that policy really frightened people off.

Mr Durie—Yes.

Senator LUNDY—In your submission to the Humphry review, you mention that there is a perception amongst your members that, owing to the nature of the Senate estimates process, key government decision makers tend to be risk averse, preferring not to select SMEs. Can you provide an explanation on that statement? I am referring to page 13 of your submission.

Mr Durie—As I say, I think that is as it is. Picking up on the comments made by some of our SME members, they felt the grilling that user agencies got through the estimates process made them wary of taking any risks in relation to IT.

Senator LUNDY—As a general approach to contracting or specifically as an accountability issue, or what?

Mr Durie—I think it is in terms of just playing it safe. It is probably more general than strictly accountability.

Senator LUNDY—I am trying to ascertain the source of that.

Mr Durie—It is from our SME members. I cannot identify who it was.

Senator LUNDY—Whether it relates to that old adage that you do not get sacked for—

Mr Durie—My colleague was just whispering to me exactly that.

Senator LUNDY—contracting IBM; I think that is how the saying goes. I think that was part of their global advertising. How does it go?

Mr Durie—‘Nobody ever got fired for buying IBM.’

Senator LUNDY—And you think that attitude still—

Mr Durie—I think there is a bit of that.

Senator LUNDY—The SMEs believe that attitude still prevails?

Mr Durie—If you think back over the last 20 years of government IT procurement to the government workstation in the early 1980s and to the installation of a certain brand of locally built computer in this building when it was first opened, there was a lot of caution built into the system about buying from suppliers who were not in it for the long haul or who had not got their quality right and so on.

Senator LUNDY—Even though IBM's business has changed significantly—let us persist with this example—do you think that risk averse nature that the SMEs perceive exists in this new outsourcing environment with companies like IBM not really providing the same services that led to that adage, which was about infrastructure and mainframe supply, but in fact in a completely different service delivery model? Do you think they are still feeling that way?

Mr Durie—From an SME's point of view, they see risk aversion as one of a range of issues that make it harder for them to sell into the government market.

Senator LUNDY—Can you link that risk aversion to issues like companies being able to cover the liabilities and the insurance liabilities? Is there a tangible example?

Mr Durie—It is an important part of it. Financial guarantees are a huge item in that that can use up all the cash flow of a small company. The government are much more inclined to leap on a local SME and demand substantial financial guarantees than they would be with another company.

CHAIR—It is like trying to borrow money from the bank.

Mr Durie—Yes. In many cases that is what the SMEs have to do. They use up their line of credit providing a financial guarantee to the federal government, which seems to be a complete nonsense.

Senator LUNDY—Will breaking up the contracts into smaller packages resolve some of those issues; or do you think that, because of this perceived risk averse nature, the government will ask for unfair financial guarantees, depending on the size of the participant in the tender process?

Mr Durie—We certainly have remaining concerns about financial guarantees, limitation of liability et cetera. That impacts much more severely on local industry than it does on anyone else. But I think that opening up the market in this way will provide lots of opportunities for SMEs of the sort where, given reasonable demands, they should be able to come up with a financial package that covers the risk.

Senator LUNDY—What is your awareness of the degree to which the government can be discretionary in its demands for financial guarantees and limits of liability? Is there a formula that makes it proportional to the value of the contract, or can the government actually manipulate the levels of participation based on those sorts of demands?

Mr Durie—Given, as I understand it, that we are essentially operating on unlimited liability, anything will be an improvement; but it certainly should be related to the value of the contract.

Senator LUNDY—Is it, though?

Mr Durie—I do not believe it is.

Senator LUNDY—So it is discretionary at the moment?

Mr Durie—It is essentially unlimited. I would have to check up in terms of financial guarantees, but, in terms of the limitation of liability in the contract, it is certainly unlimited.

Senator LUNDY—You mentioned in your discussions with Senator Campbell the role of the DCITA IT industry development branch, which implies a very overarching approach, and you highlighted the role that NOIE plays in strategic IT industry policy. Do you believe that the IT industry development branch within DCITA has currently got the power to make decisions regarding future policy direction of IT industry development generally, and specifically in relation to IT outsourcing; for example, Partnerships for Development?

Mr Durie—I imagine that power probably resides with the minister or the cabinet.

Senator LUNDY—You are right; but, in terms of your capacity to negotiate with government, do you feel that you are talking to the right people within that branch?

Mr Durie—As I indicated earlier to Senator Campbell, I would be more comfortable if it was being done in the context of a broader strategy which would mean NOIE would be at the table as well. As you know, late last year the strategy people from DCITA were moved across to NOIE, so they have probably got a role to play.

Senator LUNDY—Have you tracked the movement of responsibility for IT industry development since the coalition has been in government?

Mr Durie—Only in my head.

Senator LUNDY—I was going to see if you could provide some insights, because it is very difficult to observe from anywhere else.

Mr Durie—When the coalition came to power there was an IT&T task force in the industry department. After the 1998 election that group was moved to DCITA. Some time last year, a part of that group dealing with strategy was moved over to NOIE, leaving behind the group that managed programs such as the ID elements of outsourcing, and other program elements.

Senator LUNDY—One issue of ongoing concern to me has been the anecdotal evidence of intimidation of companies involved in the IT outsourcing process, particularly of SMEs but also of the prime contractors, in their capacity to express a public view. What is your knowledge or experience of any restrictions placed upon your members from commenting publicly about either the implementation of the program generally or their own experience within the IT outsourcing program?

Mr Durie—I can only comment as an observer, because you could not participate in the process at all unless you were a potential supplier; for example, briefings were restricted to potential suppliers and participants had to sign non-disclosure agreements where they agreed not to discuss matters publicly. That was right from the outset. There was, if you like, a gag placed right from the outset on any public comment.

Senator LUNDY—What was your experience of any of your members where, for whatever reason, they found themselves morally obligated in some way to make a comment publicly, or indeed forced by virtue of a question?

Mr Durie—I think you will find that none of the companies that participated have made any other than authorised public comment. That is my understanding.

Senator LUNDY—So you are not aware of any breaches of that occurring?

Mr Durie—No, I am not.

Senator LUNDY—Are you aware of the allegations by some companies that there was a black list held by the minister's office about companies that were known not to toe the line on confidentiality, and which therefore were not likely to be successful in any contract? I am asking you if you are aware of the allegation, not whether you are aware of a black list.

Mr Durie—No, I am not.

Senator LUNDY—Are you aware of any process which could be perceived as unfairly excluding people on the basis of hearsay or misconceptions about their public position on things?

Mr Durie—In terms of exclusion from the tendering process?

Senator LUNDY—Not specifically. I am asking about any form of unfair treatment in what should be a very open and transparent competitive process.

Mr Durie—I think the bottom line is that the industry would probably feel that it was not an open and transparent process.

Senator LUNDY—Are you aware of any concern amongst your members that there were unfair practices on the part of either OASITO or the minister's office or officers—or any involvement?

Mr Durie—Certainly some companies felt that they were not treated with respect, that they did not have access to officials or to OASITO in a reasonable way. But, as I said earlier, there are two things happening here. One is the publicly acknowledged confrontational way that OASITO went about its business, presumably on the basis that that was the only way it was going to get done because, as they pointed out and as Humphry acknowledged, many of the agencies were not enthusiastic participants. Secondly, as I explained earlier to Senator Buckland, there is always a reticence on the part of companies in our industry to comment publicly, because governments have long memories, officials have long memories, and it is a very competitive industry. So, outside of the usual marketing announcements, companies generally keep their public comments to themselves, particularly in relation to procurement.

Senator LUNDY—I want to focus on what you have just said. Theoretically these tenders are submitted through a very open and accountable process. We have looked at lots of different

graphs with lines connecting different boxes showing us exactly what that process is supposed to be. The theory is that, in a competitive process of that nature, those subjective influences like the long memories of officials should not play a significant part. Are you telling me that the commercial reality is that those issues always play a part and are part of your members' consideration as to how they conduct themselves?

Mr Durie—Members are certainly cautious about how they conduct themselves—but they would be with any potential customer. But I think the government is in a special position, because it is the buyer, the regulator, the rule setter and the legislator. Obviously companies are going to be especially cautious about making public comments which might be construed as critical.

Senator LUNDY—I want to remind you of a situation that occurred with one of the group 5 subcontractors—Advantra subcontractors—which involved one of those subcontractors going public. They had been given a big hug by the minister at the launch and they had been awarded part of the subcontract of the group 5 tender, only to find themselves later in the position—as I understood the story—where they were subsequently told what their price would be. When they disagreed, they were given the punt from that particular contract. When I raised that issue with DCITA, being the department responsible for industry development, the committee was advised that the government had no role or recourse in acting in the interests of that Australian SME because Advantra was able to satisfy their ID commitments through another subcontractor. How many of those kinds of complaints have you received from members?

Mr Durie—We have not received any directly.

Senator LUNDY—Are you aware of the circumstance I am talking about?

Mr Durie—I am aware of those public comments, but even that company, if I am remembering it correctly, did not raise that issue with the association.

Senator LUNDY—In other words, you are not necessarily a port of call for companies having a bad experience under the IT outsourcing?

Mr Durie—No.

Senator LUNDY—I wanted to get a genuine feel for that because, if you were, my next question was going to be: give us all the information. If you are not, then there is no point.

Mr Durie—No, for a number of reasons. There are obviously personality issues in various cases. Secondly, the association does not do any lobbying on behalf of individual companies; we only deal with industry issues.

Senator LUNDY—So they were not going to get individual representation from you even if they did raise the complaint?

Mr Durie—It depends on the nature of the complaint. In that case, they chose not to raise it with us, so we did not get engaged at all.

Senator LUNDY—Have you ever taken it upon yourself as an association to look at how the larger companies manage their relationships with smaller companies? Is that something you get involved in?

Mr Durie—We have certainly looked at it in a general way, but we would not try to come between two companies over a commercial relationship. We certainly organised and continue to do events that help companies network, find partners and deal with strategic alliance issues. But, like most associations, we would shy away from coming between two members who are having a commercial negotiation.

Senator LUNDY—Could you tell me, in terms of your representations here today, whether you have been asked by any companies, particularly some of the larger vendors, to officially represent them at this inquiry?

Mr Durie—We do not operate in that way. The process we go through in presenting any evidence or presenting a submission is to convene a meeting of interested members, prepare a submission on the basis of that interaction or the basis of existing policy if it is well known, circulate that widely to the membership to get views and then put that forward. If there were serious disagreement within the membership, we would not be making a submission. There are one or two examples of issues where we have declined to participate because the membership was not in agreement, but this is not one of them.

Senator BUCKLAND—Does the association provide services apart from lobbying services? I see Ms Larsen is a solicitor. Do you provide legal services or advice to member companies?

Mr Durie—Not to individual companies, no.

Senator BUCKLAND—So, if two companies of about the same size got into a bit of a barney with each other because of a tendering arrangement, you would not intervene to try to quell it or still the waters?

Mr Durie—We have a mediation partner, if you like, that we would refer companies to if that is what they wanted. We do provide other types of services apart from lobbying, but not of that nature. Generally, we do not do any lobbying, consulting, et cetera for individual companies.

Senator LUNDY—Do you believe that the government should take into account Partnerships for Development commitments and, I suppose, obligations and outcomes as part of their ID assessment of participants in the IT outsourcing process?

Mr Durie—I think this is what I mean by putting the IT outsourcing in a strategic context—that all of these things should be brought together.

Senator LUNDY—Sure. I am asking you straight-up what you are lobbying for, what you are working towards.

Mr Durie—I think the industry had a very confusing situation.

Senator LUNDY—So you think that it should be?

Mr Durie—Absolutely. The industry had a very confusing situation where, on the one hand, they were being asked to commit to programs over seven years or so and, at the same time, they were being asked to make commitments on a contract-by-contract basis. It just did not make sense.

Senator LUNDY—If that is the case, what is your view on how Australian companies who qualify with the appropriate definition—and I acknowledge your concerns about the definition—should weight against a range of commitments that may be able to be presented by a multinational with a multitude of commitments? Are you happy with the current way that is evaluated, if indeed you are aware of it?

Mr Durie—I am not sure I would know the detail of how they weigh it up, if indeed anyone does.

Senator LUNDY—We do not know the detail yet either, but we are interested in finding out. So maybe for a start, when the committee finds that information and if it becomes available, we might come back to you and seek your comment on that. Also, what are your views on how that weighting should apply so that Australian companies are not even further disadvantaged by any aggregation of ID requirements such as you are advocating?

Mr Durie—Our preferred position, generally speaking, because we are still thrashing this out—in fact, we have a meeting early next week to try to sort through some of the detail—is that it might be preferable to have some system which gives companies, be they Australian companies or foreign companies, a ticket to play because they have made a commitment to undertake the necessary industry development. So everyone would be on the same level.

Senator LUNDY—Level playing field?

Mr Durie—I would not want to use that term in terms of ID generally.

Senator LUNDY—I thought you were hesitating.

Mr Durie—You might then want to look at what is the interaction between SMEs in individual contracts in terms of, not revenue or sales, because one of the problems with the outsourcing program was because the focus was on the sales going to SMEs, there was no attention to what was the profit or what was the go forward in terms of access to export markets, other markets and so on. So I suppose we have come down to that with two elements: one where you might have a general ticket to play, in which you would have to make some sort of broad commitment to industry development a la the partnership program; and then to look at how you treat the question of the involvement of SMEs. But that would have to be done on a holistic basis.

Senator LUNDY—Or, indeed, your qualifications as a business operating here with an export plan.

Mr Durie—Absolutely. In fact, under the endorsed supplier program the local companies do have to put forward plans for employment, exports, quality and so on.

Senator LUNDY—Do you think that should be part of this assessment?

Mr Durie—We somehow should be able to come up with a holistic approach, otherwise we have got companies jumping through five different hoops facing in different directions.

Senator LUNDY—Thank you.

CHAIR—That may be an appropriate time to bring the session to a conclusion. We could go on for a considerable time, but we do not have the time to do it. Thank you, Ms Larsen and Mr Durie, for appearing before the committee.

Proceedings suspended from 3.17 p.m. to 3.34 p.m.

BATMAN, Ms Gail, National Director, Passengers and Information Technology, Australian Customs Service

CHALLIS, Ms Melanie, National Manager, IT Management Branch, Australian Customs Service

HOLLOWAY, Mr Steve, National Manager, Cargo Management Re-engineering, Australian Customs Service

McNEIL, Mr Ian, Contract Adviser, Australian Customs Service

WOODWARD, Mr Lionel Barrie, Chief Executive Officer, Australian Customs Service

CHAIR—I welcome the officers from the Australian Customs Service. Do you wish to make an opening statement, Mr Woodward?

Mr Woodward—No, but I would like to table an additional document if I can. At the Legal and Constitutional Committee hearings there was consideration given to a paper prepared by an organisation called Tradegate. At that meeting we tabled a response to that paper. I understand that tomorrow a firm called connect.com will be appearing. All of the issues raised in their submission were also raised in the Tradegate submission, so we have not prepared a response to connect.com but we had prepared one for Tradegate—which was tabled before the Senate Legal and Constitutional Committee—and I would like to ensure that this committee has the same document. I would like to table that.

CHAIR—Thank you.

Senator EGGLESTON—You, in your submission, have referred to the difficulty in finding suitable companies to provide IT services to you. You say that it is a good idea but that the expertise and the services are not really there in the Australian environment. We have heard some evidence that in fact the difficulties might have related to the fact that there were very large contracts being let due to the grouping of various departments. Do you think the fact that the proposal now is to allow each individual agency to seek to service its own IT outsourcing needs through its own contracts may mean that there will be sufficient suppliers of IT information in the Australian market to satisfy those needs?

Mr Woodward—I think there is a greater potential for that to happen. What has happened, though, over the last three years has been that a small number of large companies have come out as prime contractors. Those contracts will continue to run for a period, so the crowding of the market will continue, but it will not be quite as crowded as if the clustering arrangements had continued. If I can emphasise it, one point we attempted to bring out in the submission was that initially—and indeed I think there is still a problem now—there were difficulties in getting the right people, the people we needed to do the work that we had to do, and that was a significant driver of our decision to proceed in an outsourcing mode. My perception—and I stress that I am not immersed in IT—is that there are still difficulties in getting good quality, skilled IT people, particularly in some areas.

Senator EGGLESTON—It is difficult to find them?

Mr Woodward—Yes. Some of the difficulties have been taken off our shoulders in that our prime contractor, EDS, have to try and get people and we are certainly aware of the quite considerable difficulties they have had in getting the right people in a number of areas despite worldwide trawling for staff.

Senator EGGLESTON—So they have looked beyond Australia? I was going to ask you about that.

Mr Woodward—Yes. In fact, some of the people they are now getting are from overseas, but they are finding it more difficult than I think they originally thought they would.

Senator EGGLESTON—Do you think that the proposed new system, where each agency can seek smaller contracts, is going to produce a better situation? Do you believe outsourcing will work more effectively with that kind of regime?

Mr Woodward—I think there is the potential for that to happen, provided the organisation concerned has got a mature IT assessment capability, because it is no easy task to pick from the array of potential contenders in Australia—or indeed from overseas—a firm that will actually do what you want it to do. So there is the selection process and then, of course, the contract management process. I think the potential is there, but I do not think I am properly qualified to go any further than that.

Senator EGGLESTON—One suggestion that has been put is a mixture of in-house and outsourcing, where you have in-house IT experts who formulate a policy and decide what a department's or an agency's requirements are and then you seek to get the service provided on an outsourcing basis. Do you think that kind of mixture would be a successful model that Customs could follow?

Mr Woodward—Quite frankly, I think what Mr Humphry has come up with, if my reading is right, is pretty much what Customs actually did. In other words, Customs took the decision that it would test the market; that it would make a decision on how far it would go—whether it would stick to mainframe, to mid-range, to desktop arrangements, or whether it would take the next big step and go down the track of also picking up applications development. As I understand the Humphry report, that is what he is saying: the choice ought to be with chief executives; let them decide and let them be accountable for any mistakes they make in the process.

Senator EGGLESTON—Basically, though, you do seem to feel that outsourcing has merit as a concept and as a proposal. You say that outsourcing provides an opportunity to instil greater discipline between users within an organisation and with its outsourcer and that it flows from the need for users to clearly set out what it is they need to do and their expectations so far as performance time and quality are concerned, and to assess the cost implications for their budget. Basically, it would seem you support the general thrust of the outsourcing policy.

Mr Woodward—As I said, we took a decision to go down an outsourcing route before the government actually decided that agencies would go down an outsourcing route. So that choice

was made, and I exercised that choice. I certainly have no fundamental or philosophical objections to an outsourcing route. I guess we all learn from experience to do things in different ways and that things have changed in three years.

Senator EGGLESTON—Indeed. AIIA said that there were something like 500 companies providing IT services in Australia, and I think your comment that it has been difficult to find suitable companies out there is quite a fascinating one for you to have made.

Mr Woodward—I stress that we were not looking for companies. We have been looking for EDS, for available expertise. Given that we have outsourced all of the tiers, the primary responsibility has fallen on EDS to find those people. My understanding is that they have searched extensively within their own company and that they have tapped some of the other smaller contractors and found people. Not all of our applications development work has been undertaken by EDS. A very significant contract was signed only last week with a Melbourne based company that will have responsibility for the development of a major system related to Coastwatch. It is an Australian firm, although there is some Canadian intellectual property in it. We are actively looking for the best answer. We are certainly looking at potential within Australia, but EDS is doing the same.

Senator EGGLESTON—I suppose that is really an example of the existence of the outsourcing policy facilitating the enhancement of the kind of expertise that is available in outsourcing in Australia.

Mr Woodward—I am sorry; I am not quite sure of the point you are making.

Senator EGGLESTON—In a sense, it has drawn Australian IT companies into the development of new expertise to service the outsourcing needs of government agencies.

Mr Woodward—I believe that is so. Again, that is not my area of expertise. I guess my primary job is to get my Customs work done. But from where I sit I can see some advantages that have flowed to some Australian companies from it, and certainly from Ocean, the Melbourne based company that will be doing the Coastwatch development work.

Senator EGGLESTON—Thank you.

Senator LUNDY—In terms of Customs experience with EDS as your prime contractor, can you tell us the extent or degree to which you have analysed the involvement of Australian SMEs in their contract?

Mr Woodward—We are aware that they have used some Australian companies, but in large part what we have said is that there is a contractual commitment. The contractual provisions were worked out in conjunction with the relevant coordinating agencies, and EDS has primary responsibility for those which administer Australian industry policy. We do not have a mechanism that pursues the nature and extent of Australian industry involvement. I do not see that as our role.

Senator LUNDY—I did not ask if it was your role to pursue it; I asked you if you were aware of the extent of involvement with SMEs in the EDS contract.

Mr McNeil—Attachment 4 to the submission gives a list of organisation names advised by EDS who were involved who they believe were SMEs. EDS have not quantified in terms of how much work is going to them but they certainly identified a number of companies which they have used as subcontractors—people like J&A, the distillery there for the development of an application for intelligence systems. So they have provided those details.

CHAIR—But a lot of those companies there you could hardly list as industry development initiatives: cleaning, landscaping services, employee counselling, ergonomic assessment. You can hardly judge those as IT industry development.

Mr McNeil—That is true. The only contractual obligation, as Mr Woodward said, in the Customs contract is that EDS must remain a member of the Partnerships for Development scheme. It is a matter for the industry department to monitor their compliance with that. There is nothing in the Customs contract that requires them to meet any other particular performance levels around industry.

CHAIR—Is there no industry development clause in the contract?

Mr McNeil—The only clause is that they must remain a member of the Partnerships for Development scheme.

Senator LUNDY—What is your understanding of the degree of compliance with the partnerships for development requirements of EDS?

Mr McNeil—We will need to check with the industry department, but EDS advises that they remain a member of that scheme.

Mr Woodward—Just as a point of clarification, I have just got a slight feeling that the industry functions might have transferred to the communications department. I know there was a little bit of misunderstanding within the committee, but it is my understanding that it has gone across.

Senator LUNDY—We are trying to get to the bottom of that as well. Can you take on notice, then, providing the committee with a report as to the precise status, and indeed performance, of EDS in relation to their partnerships for development commitments under their contract with you?

Mr Woodward—We will have to get the information from EDS, obviously.

Senator LUNDY—What accountability mechanism, if any, do you as the client have for ensuring that they actually do comply? Do you, for example, sit there and await notification from either industry or DCITA of non-compliance?

Mr Woodward—We do not see it as our responsibility.

Senator LUNDY—I am not saying it is your responsibility; I am making it easy for you by asking whether you just sit there and wait to be advised of any non-compliance.

Mr Woodward—I do not think we sit waiting for that at all.

Senator LUNDY—But your contract is with them, so if they breach their contractual commitments surely you would hear about it.

Mr Woodward—The oversight of that rests with someone else—

Senator LUNDY—That is my point.

Mr Woodward—and they would need to tell us. To the best of my knowledge, no-one has told us that they have breached—

Mr McNeil—We have specifically asked EDS whether they remain a member of the scheme and they have told us they do. We have not specifically asked the relevant government department which is responsible for oversighting the scheme. We will now check with them.

CHAIR—Does DCITA not send you a letter saying, ‘We have perused the annual report, and EDS are meeting their commitments in terms of industry development’?

Mr McNeil—I have seen no such advice.

CHAIR—So it is only really advice in the breach.

Senator LUNDY—They are suggesting that it is not even advice in the breach.

Mr McNeil—We will formally ask them for the status of EDS under the scheme.

Senator LUNDY—Does EDS have any contractual relationship with any department apart from yours in relation to their contract with you?

Mr Woodward—In relation to their contract with us?

Senator LUNDY—Yes.

Mr Woodward—They have the tax office—

Senator LUNDY—I am trying to get to the root of accountability of the Partnerships for Development clause. It sounds like the clause exists but no-one is charged with the responsibility of ensuring compliance, let alone putting in place a process by which some sort of assessment or update is kept on that commitment. Would EDS be reporting to anybody else?

Mr Woodward—If they are going to report to anyone, as I understand the departmental relationships, it would be to the communications department. Whether they have, I do not know, frankly.

Senator LUNDY—Are you familiar with the provisions of that clause of the contract?

Mr McNeil—The only requirement in the Customs contract is that they must remain a member of the scheme. There is no other requirement for them to report to Customs, other than if they cease to be a member.

Senator LUNDY—Have you had the opportunity to consider the Humphry review recommendations in relation to the role of agencies and departments in managing industry development aspects of their IT outsourcing contracts?

Mr Woodward—We read the report. The difficulty that we have is that our contract is now three years old; it is not a new set of arrangements. My recollection is that the words of the contract within which we operate are that the contractor will retain its status as an endorsed supplier and a participant in the Australian federal government's Partnerships for Development, PFD, program. Certainly we are aware of that, but, because the contract was written three years ago, there is not much we can do about that.

Senator LUNDY—What are your thoughts or plans in relation to the suggestion that agencies and departments should take on a role in terms of industry development, as suggested in the Humphry review?

Mr Woodward—We will obviously have a look at it, but it will have to be in the context of the contract that we now have.

Senator LUNDY—Sure. I am not suggesting necessarily that you look at your current contract; I am really asking you to look at the future.

Mr Woodward—Our contract expires in two years time. I personally think that what he is saying makes a great deal of sense. We would certainly be looking at it as we move towards decisions at the five-year mark.

Senator LUNDY—What about any opportunities within the existing contract which require some variation or strategic decision making over the next two years and which could present opportunities for local industry development—is that something you would take seriously and pursue?

Mr Woodward—We would undertake to take that seriously because we now have the Humphry report and the government decision on it. If there were any opportunities which we could exploit—and there is a need, obviously, for both sides to agree—we would certainly do it. Our commitment to Australian industry is reflected in the example I have just given, where we have gone separately to an Australian company for a very large contract.

Senator LUNDY—No, I appreciate that. You say there may be opportunities where two parties agree—I presume you mean you and the vendor, EDS?

Mr Woodward—But we cannot just go ahead and—

Senator LUNDY—I know that—because you have a contract—but you could make a strategic decision to move down a certain path and that may or may not affect your contract

with EDS, or are you saying that, no matter where you go, they have got a grip on your capability to move?

Mr Woodward—Your commencement point was altering the contract—a variation of the contract. There has to be two parties to agree to vary a contract. That was the simple context in which I put it. We may well want to explore that, but EDS would have to agree—and I am not saying they would not agree; I do not know.

Senator LUNDY—But they will have a say?

Mr Woodward—Yes, of course.

Senator LUNDY—So it won't be a question of government policy for you?

Mr Woodward—No, because we have got a firm contract. If we want to vary the contract to insert more of those provisions in it, we will have to get their agreement.

Senator LUNDY—Have you received any policy directives or instructions from your minister, or indeed any minister, about seeking opportunities for greater local industry development with regard to your IT outsourcing contract?

Mr Woodward—Obviously, I am personally well aware of my minister's desire to enhance the development of Australian industry. But, in the context of IT, given that he has only been in the job for a couple of months, I cannot recall having a discussion with him on that particular issue.

Senator LUNDY—Mr McNeil, can you shed any light? Have you had any contact with your political masters about their desire to enhance Australian industry involvement in your IT contract?

Mr McNeil—No.

Senator LUNDY—I would like to run through some specific questions about the performance aspects of the contract. I know we have asked other departments and, from time to time, may have asked Customs—I have done so many of these hearings. What provisions exist in your contract for either financial penalties or service credits?

Mr Woodward—We have a service credit arrangement.

Senator LUNDY—Have I asked you recently for a completely up-to-date summary of service credits applied and for what? I may well have—at estimates or some other forum.

Mr Woodward—I cannot recall that you have. You have asked us a lot of questions in the last few meetings, but I cannot recall that one.

Senator LUNDY—Good—consider it on notice! I do not know if you are in a position to comment now or at least give us some indicative figures.

CHAIR—It might be easier to tell Senator Lundy the questions she has not asked you.

Senator LUNDY—I am always appreciative of suggestions like that, Senator Campbell.

Mr Woodward—To be clear for those who have to dig out the information, can you be quite specific as to what you would like us to provide?

Senator LUNDY—This is where it tends to take time. I was hoping you would be completely forthcoming about everything you know about it, but I will try and be more specific. What I am after is where Customs has had cause to apply a sanction or penalty to EDS for either something that you have scheduled as warranting a penalty or sanction or something external to penalties and sanctions identified as part of your service level agreements or the contract that you have had cause to seek damages about. I would also like you to document the actual breaches that occurred.

Mr Woodward—We did discuss that issue generally in a previous meeting. At that stage I gave you a figure for service credits at that time. The last figure I had was about \$3.5 million. But you are looking for the underpinning of that \$3.5 million.

Senator LUNDY—Yes—the breakdown. I am also interested in the nature of the breaches that occurred.

Mr Woodward—We would obviously need to categorise the breaches, but I know what you are looking for.

Senator LUNDY—We heard this morning from the CPSU that they have started to compile reports back from members about their membership's assessments of lost hours as a result of service credits—and it sounds ridiculous saying it, but as a result of failures of systems that may or may not have actually resulted in service credits. They were able to give us some indication that these breakdowns, for example, in the desktop equipment or the network services could result in a loss of people hours or work hours into the hundreds. Do you as an agency document in any way, shape or form the loss of work hours as a result of the downtime of your IT systems?

Mr Woodward—I will get Mr McNeil to check this, but my recollection is that that is taken into account in the application of service credits.

Senator LUNDY—No, I appreciate that. At the moment we can only get a quantification of those breaches by virtue of the dollar figure attached to service credits or this description that I have asked for. What I am actually asking for is an agency or a department analysis of the impact on your efficiency. It is something not handled, obviously, by the vendor in their compilation of those problems, calls and service credits, but is there in fact an analysis that would give you as the managers, if you like, an understanding of the true impact of those breaches?

Mr McNeil—I understand what you are asking for. It would be a very difficult costing exercise. There are certainly figures available readily. For example, if an application availability target was 99.7 per cent of the time during prime hours, or 95 per cent during non-prime time,

there are reports on performance against those target levels. Clearly, if the target is 99.7 per cent and it only runs at 99.3 per cent there would be a service credit that would be attached to that. In terms of going that extra step to assess the impact on productivity in Customs, the difficulty is that Customs is a 24-by-seven operation. A lot of these outages occur at times when there are not many Customs staff on deck, so it is very difficult to work out the precise impact. We can say that, comparing the figures for things like application availability pre- and post-outsourcing, the position post-outsourcing is certainly no worse, if not better than pre-outsourcing.

Senator LUNDY—It is very easy for these contracts to express performance in percentage terms—the percentage of realisation of service level outcomes, et cetera—but it is actually not very informative from parliament’s oversight perspective as to what that means in real, on-the-ground impact on service delivery and service capability of agencies and departments. I am actually looking for something beyond the way those contracts are constructed because I genuinely think that service credits are constructed and worded as a sanction and a penalty. The language and construct of those measures present a best case scenario, and I am more interested in the real impact on the day-to-day lives of your employees as they conduct their work and, indeed, in the impact that has on you and your efficiencies as a department.

Mr Woodward—The assessments would obviously be qualitative. In a contractual sense, it is much easier to say, ‘You must deliver this 99.7 per cent of the time.’

Senator LUNDY—Yes, it is an old trick of contractors around the world. It is nothing new, and I admire their methodologies. They are very scientific; they are just not informative.

Mr Woodward—It may not be informative, but contractually it is much easier for us to put to our outsourcer that they have not met something that can be measured in that way than to say, ‘We have five people who have expressed a series of complaints to us and we want you to do something about it.’ The additional complexity for us and for many other agencies such as ours is that the impact is not just on our staff. In many cases the impact is on the community, the international trading community, and how you construct something that produces anything that is worthwhile in terms of assessments I would really have to give a fair bit of thought to.

CHAIR—Mr Woodward, I do not know if this is what Senator Lundy is trying to get at, but it seems to me to be the critical aspect of the question. If the requirement is 99.7 per cent performance level and they are only making 99.3 per cent, that 0.4 per cent may not appear on the surface to be significant, and it may well be a collection of very marginal breaches that have occurred. But the other side of that equation is that that 0.4 per cent could also represent a very major breach of the system which could seriously impact upon Customs’ capacity to carry out its role, 24 hours a day, seven days a week, as Mr McNeil has said. I think what Senator Lundy is trying to get at is the measure of what is significant and what is marginal or trifling in terms of the service that they have contracted to provide.

Mr Woodward—Assessments are made, because our contract is worded in such a way that service credits may apply—they do not necessarily apply—and judgment is applied in fact in that area. Whether 0.3 or 0.4 per cent is important or whether it is not, I had the impression that Senator Lundy was looking for some way in which we and other agencies could come up with a qualitative measure of the impact of the performance of our contractors—contractor in our

case—on Customs when certain things happen. It could be down time, it could be things off the air, things not provided on time. That is what I thought, and I am struggling with it.

CHAIR—I thought she was looking for specific examples of the breaches.

Senator LUNDY—No, I have got on notice specific examples of the breaches, but you are quite right, what I am asking for—rather than just identifying network failure, for example, as the breach—is how many computers went down that day and how many work hours were lost.

Mr McNeil—The service credit regime itself attempts to reflect the business impact. If you take applications, for example, we classify systems as either critical or non-critical. The cargo systems and passenger processing are classified as critical systems. They attract a higher service credit for failure than the other systems do. There is also a sliding scale arrangement: there is so much per hour or part thereof that they fall below the target. So a combination of having a time based credit arrangement and a higher level applying to the more important activity attempts to relate the credit back to the business impact. If you get into the network area, it is so much per terminal affected when the standard is missed, so an outage which affects 600 people in one office will attract a bigger service credit than something that affects 100 people in another office. So it is an attempt to try and build the business impact into the service credit regime.

Senator LUNDY—I accept that, and I think that supplements what we are looking for, but I still would like to get that, as you say, qualitative picture of just what these breaches mean.

Mr Woodward—We will see what we can do, but I fear that you might be looking for the extremely difficult, if not the impossible. Presumably you have asked others—

Senator LUNDY—I have, and I intend to keep asking the question, because it really raises the issue of how agencies and departments take it upon themselves to assess the performance of contractors at a qualitative level as opposed to the very dry percentage performance against the service level agreements. I can understand your point about that being a useful performance management mechanism. But, for example, the feedback from the CPSU provided this morning indicated that they had seen no evidence of any agency or department asking their staff what the impact was and actually surveying or getting specific feedback from individual employees about the impact on their personal productivity and efficiency pre or post for any comparative value of these outsourcing contracts. Firstly, I just found that quite amazing; secondly, I am now setting about the task of asking those specific questions.

Mr Woodward—I understand what you are looking for, and we will do whatever we can.

Senator LUNDY—I would like now to refer back to discussions that we had at previous estimates meetings. One of the issues we discussed was the changing arrangements with EDS managing your various databases and, particularly, the issues surrounding Tradegate and the role of Tradegate in being the industry hub, if you like, and having the ability to access information. You implied on the record last time that there was some disagreement between the CEO of Tradegate and his board. Upon reflection, I thought I might give you the opportunity to clarify that statement—because I have certainly been advised that there in fact was no such difference between the view of the CEO and the board of Tradegate—and how you reflected upon his views in the environment of the Senate Legal and Constitutional Committee.

Mr Woodward—I do not have with me at the moment precisely what I said. As closely as I can recall, I made the point that the submission was made by Mr Robertson, who is the Chief Executive Officer of Tradegate, and I was not aware that the board itself, as a board, had endorsed the submission which Mr Robertson put to a number of senators. There was some confusion as to which committee he would put it to. But, as I understand it, at the end of that hearing it turned out to be to individual senators, some of whom have cross membership, which is why I wanted to table a response to it.

The fact is that I do not know whether that submission was cleared through the Tradegate board or whether it was not. That was the point that I was attempting to make: I do not know whether it was. I certainly would have said that I would be a little surprised at some of the comments that were in it being cleared by the Tradegate board. I did not mention the example, but, on behalf of my staff, I am pretty offended by the reference to unprofessional conduct, which I think in the Senate Legal and Constitutional Committee is a pretty damning comment to make. I say now to you that I would be surprised if a board of an organisation, which has the relationship which it has with Customs, would have endorsed a comment that accused Customs and its staff of unprofessional conduct. But, if it has, then I am wrong—obviously. If you have information that says that the Tradegate board did in fact clear the document, then I am wrong and my judgment that they would not have done it is obviously wrong as well.

Senator LUNDY—Okay. That is certainly the information that I have. I wanted to clarify: are you a member of the Tradegate board?

Mr Woodward—I am not. There is a Customs officer who is a director of the company.

Senator LUNDY—Who is that?

Mr Woodward—John Drury. He mentioned that to you at one of our meetings. He was sitting here.

Senator LUNDY—Yes, I remember that. So it could just be that you were not advised by your representative on the board of the deliberations of the board?

Mr Woodward—Let me put it this way: if the Tradegate board agreed to that submission as distinct from noting it or whatever else—in other words, if they fully considered the submission—I would say that my officer was not present at that meeting.

Senator LUNDY—Are you aware as to whether or not your officer was present at that meeting?

Mr Woodward—I am not aware, but—

Senator LUNDY—Well, you have gone out on a bit of a limb here, haven't you?

Mr Woodward—What I am saying is that I stick to what I said before. You have one easy way to find out: ask the board whether it did clear the submission.

Senator LUNDY—Is it possible that you just disagree with the view of the board?

Mr Woodward—What I said to you then and what I am saying to you now is that I would be surprised if the submission were cleared by the board. If we include the comment about unprofessional conduct, then I would be more than surprised, and I would, obviously, be wrong in my assessment.

Senator LUNDY—In other words, you disagree with the submission?

Mr Woodward—There are parts of it that are factually incorrect.

Senator LUNDY—Don't you think that that is probably a more appropriate comment than trying to discredit it?

Mr Woodward—I honestly do not think that I have attempted to discredit it. You have, presumably, read our rebuttal?

Senator LUNDY—Yes.

Mr Woodward—I thought that the rebuttal was objective, picking up a number of factual errors and a number of differences of view of judgment. I would have thought it was very helpful to the committee. So we were not peeved or—

Senator LUNDY—I am curious about your tactics in using the estimates opportunity to try to undermine the credibility of the CEO and his relationship with the board, and then to come back here and further undermine—

Mr Woodward—That was not the purpose of it.

Senator LUNDY—To further challenge some of the assertions in that submission in the way that you have today I think is surprising conduct.

Mr Woodward—I stress that that particular comment probably took up 30 seconds of a very long discourse between you and me, and the large part of it—

Senator LUNDY—Let me tell you that it attracted a lot of attention.

Mr Woodward—There was a large part, you will recall, where we spent time focusing on diagrams which I handed around. The component of whether or not the Tradegate board had endorsed it was a very small part of it. It was not my focus; my focus was to say that there are some parts of it where our judgment would disagree in some areas. We think Tradegate is wrong, but they have every entitlement to put anything they like to you.

Senator LUNDY—Absolutely.

CHAIR—Have you asked the officer in question whether or not he was party to discussions on the Tradegate board?

Mr Woodward—I tread a very careful line in the distinction between a role of one of my officers who is responsible to me and his responsibilities in relation to the Tradegate board. Having sat in one of those roles before myself as a director of a government owned company and as an officer, you have to be very careful as to what you say, and I have to be very careful as to the questions I ask. But if this committee is asking me to ask him, I will ask him.

Senator LUNDY—You have just cast a very savage aspersion upon him by suggesting that if that person had been at the meeting they would not have approved or supported the submission, so you are actually contradicting yourself.

Mr Woodward—At a meeting where that submission was endorsed, that is the point that I am making.

CHAIR—I think it would probably be the shortest and the quickest way to resolve the issue for you to ask the officer did he participate and did the board endorse the submission.

Mr Woodward—If he was not there—

CHAIR—If he was not there, he won't know.

Mr Woodward—He won't know, that is the point, and therefore you would need to go back to the board and ask them.

CHAIR—But he may well know. If he was not at the board meeting, I assume he would have access to the minutes of the board.

Mr Woodward—He may, but I guess my preference would be that, if this is a major issue, and Senator Lundy has obviously made some contact with someone in Tradegate, would it not be appropriate for the committee to approach Tradegate and ask them for whatever information they have on Tradegate's considerations? I would have thought that that was more appropriate.

CHAIR—It is an issue in the sense that it will have an impact on what weighting we give to the submission, if it is just simply from the CEO or if it does have the imprimatur of the board. But that can be cleared up very quickly. If there is an officer of Customs on the board, that matter should be able to be cleared up very quickly.

Mr Woodward—It is a question of appropriate approach, whether it really should be for your committee to make that approach to Tradegate, or whether it is appropriate for me to—

CHAIR—Look at it from our point of view. We are not calling into question the veracity of the submission. You are calling into question the veracity of the submission because you are putting a question mark over whether or not the board actually endorsed the CEO's submission. You have it within your power to clarify that very quickly, and I think there is some onus on you to do so.

Senator LUNDY—I will be interested in Mr Woodward's approach, but he is quite right, it is not his call. Having just heard you explain your concern to stay at arm's length, I am interested

in why you are so confident that, if in fact your representative was there, you would have been able to influence things and effectively assert that they would not have endorsed that submission anyway. So where does this arm's length—

Mr Woodward—I am guessing, and that is why I said before that if my judgment is wrong—which is what I said—then I am wrong, and I will have to admit that my assumption of what that board would do was in error, that I was wrong.

Senator LUNDY—We look forward with interest to your response. I can advise the committee that indeed it was dealt with at the board level and endorsed by the board of Tradegate. That is what I have been advised, so I look forward with interest to anything Mr Woodward can contribute through the Customs representative on the board of Tradegate, Mr Drury. We discussed last time also the impact of recent decisions involving EDS and the electronic commerce gateway. Where are those fabulous graphs that you gave me when I need them?

Mr Woodward—They are in the material we just tabled.

Senator LUNDY—They are indeed, they are on the back of the submission. Just going back to that to follow up a few questions, are you in a position to provide any further light on what the cost implications will be for users of the gateway if in fact you proceed down the path you outlined at that previous hearing of removing Tradegate's capacity to be a hub in line with the current arrangements?

Mr Woodward—My recollection is that at the last meeting of the Legal and Constitutional Committee I read out to you some material that had come from PricewaterhouseCoopers from the United States and also mentioned the experience of New Zealand Customs. At another point I read out to you an extract of material from a cost-benefit analysis and included in that material was a reference to significant reductions in costs. But for the smaller end of the market—small to medium business—the impact would be marginal. I think we left it at, 'Do you mean marginal up or marginal down?' and that was a question on notice. The answer to that question you have left with us on notice will be marginal up—marginal in the sense that there will be savings to everyone but the greater savings will occur for those who are in an accredited client arrangement and for the larger users of our systems.

Senator LUNDY—I also asked you if you were prepared to guarantee in some way that savings would be realised by all participants.

Mr Woodward—That is the point I just made, that savings will flow through—

Senator LUNDY—So you are able to guarantee savings?

Mr Woodward—What we said was that the cost-benefit report, prepared by PricewaterhouseCoopers and referred to in the Tradegate submission, covered the issue we were talking about. I am now confirming our understanding of what the PricewaterhouseCoopers report said—that is, that there would be benefit for all.

Senator LUNDY—Do you take that advice at face value? Are you able now to advise all of your clients, I guess you would call them—the users of your service—that they will be able to have a per transaction reduction in costs?

Mr Woodward—What we are saying is that we are as confident as anyone can be, given that our legislation is not yet through the parliament and our systems are not yet built, that there will be financial benefits to all. The empirical information which I gave you on the last occasion would suggest that that is so.

Senator LUNDY—When you say the legislation is not through parliament, can you just outline specifically for me what the relationship is between the legislation and your current negotiations with EDS on the establishment of this new Customs connect facility?

Mr Woodward—The Customs connect facility is part of the IT systems which will underpin a new set of arrangements.

Senator LUNDY—So they are integrally linked?

Mr Woodward—They are not integrally linked, no. I would need to think that one through. They are integrally linked with the systems.

Senator LUNDY—It is a difficult question. I do not know whether you want a shot at it, Mr Holloway.

Mr Holloway—One of the provisions in the legislation, which creates the legal framework for the electronic environment, is for a head of power for the chief executive officer to detail, via gazettal, how people should communicate, including messaging standards and the like. That is the linkage between the legislation, the gateway and the way people communicate with government.

Senator LUNDY—What clause of the legislation is that?

Mr Holloway—I do not have the bill with me. I could not provide that offhand, but I could certainly put my hands on it quite easily with the bill in front of me.

Senator LUNDY—I am referencing a graph you gave me that says ‘Customs Connect Facility—the Concept’. Does that legislation need to pass for your Customs connect facility to go ahead in the way envisaged?

Mr Holloway—The head of power needs to be in place to allow the gazettal of those rules. Can I provide you with a quick background of the reason that that was done in the legislation.

Senator LUNDY—Yes, please.

Mr Holloway—At the moment, specific systems such as compile, see cargo automation, air cargo automation are dealt with and mentioned in the Customs Act 1901. The problem is a fairly obvious one: as technology moves, there would need to be an amendment to the act to

keep pace with technology. So, in this bill, by putting the head of power in to enable gazettal as opposed to an act amendment, we have a better chance of keeping pace with technology.

Senator LUNDY—So by inserting that head of power you create an environment where the executive assumes control of the changing of arrangements?

Mr Holloway—In setting the rules, that is right, but—I would need to check this—I am pretty sure that that is a disallowable instrument and, as a disallowable instrument, would need to be tabled for parliament to have the opportunity to scrutinise the process.

Senator LUNDY—If it is a disallowable instrument, what will have to come forth for consideration by parliament as part of that is the new process as proposed by that head of power?

Mr Holloway—What is proposed to be put into the *Gazette*, yes. So outlining exactly how we would expect people to communicate. It picks up issues like the use of digital signatures to authenticate communication.

Senator LUNDY—Does it pick up this issue of the potential channels—that is, this whole issue of Tradegate moving from being the existing hub to being one of many of what you would call ‘potential channels’ between the security firewall of Customs and the rest of the world and all the clients?

Mr Holloway—It does not go that far. It simply sets out some standards that anyone would have to meet if they wished to communicate with Customs. The particular avenue people want to pursue in communicating becomes a matter of choice.

Senator LUNDY—I see what you are saying, but that was not actually my point. In the model change from what it is now to the way you want it to be, is the proposal of that new structure something that would be the subject of a gazettal and therefore disallowance?

Mr Holloway—Partially. The arrangement with Tradegate is also based on the existing contract, so the Tradegate arrangement is dependent on contractual arrangements, which have nothing to do with these rules. The rules are relevant to the process in a generic sense, but the particular arrangements around Tradegate, including a move away from that, are dependent on what is negotiated contractually.

Senator LUNDY—What are your current contractual terms with Tradegate? What is the expiry date of their existing contract?

Mr McNeil—The current contract expires in June this year. There are negotiations taking place with Tradegate at the moment for an extension of that contract.

Senator LUNDY—Thank you, that was very useful.

Mr Woodward—Can I add one extra point in relation to the gateway. The views that have been expressed are not necessarily universally felt within the community. You will appreciate

that a lot of goods coming into Australia come through air couriers for small and medium sized businesses.

Senator LUNDY—I am very aware of the diversity of views in the industry. Many people have taken the opportunity to make representations.

Mr Woodward—Okay. I will not indicate to you any more formally that the four major air couriers want choice.

Senator LUNDY—For the record, who are they?

Mr Woodward—For the record, I should say that we do not support the notion that parties should be forced to communicate with Customs for a sole gateway provider, as has been the case with Tradegate. That arrangement has certainly fallen well short of being equitable, as has been claimed. The companies are DHL, TNT, Federal Express and UPS.

Senator LUNDY—They are all well-known Australian SMEs.

Mr Woodward—No. My point is that small and medium businesses actually use those companies to get their goods in. They are talking about a reduction in the impact of costs to the end users of that, which are small and medium businesses, which is where the discussion started last time.

Senator LUNDY—Yes. In terms of the access of those organisations to you, how long have you been consulting directly with those companies about these changes and their claim for what they call ‘greater equity’?

Mr Woodward—That was another question that you asked us last time, and the answer will be in the material which will find its way through the system.

Senator LUNDY—We are still waiting for it, by the way. It is probably not your fault.

Mr Woodward—There is a series of clearances—you know the system. We might think we have an answer, but clearances have to be given.

Senator LUNDY—Yes, I know.

Mr Woodward—I think we might have even said it in the submission, but certainly we have been consulting as far back as 16 March 1999. In it there are references to the need to have a close look at an Internet based approach in a report of cargo management strategy, which was published in March 1997, which followed consultation with something like 500 submissions and 500 representatives of industry. It is a published report, and if you are interested in it we can get it to you. These are the sorts of things that Customs needs to think about. So it was a toe in the water at a very general level back as far as 1997, and more specifically in 1999.

Senator LUNDY—So, coming back to my question, what sort of access do these companies get to you now in advocating their views and claims for, effectively, lower prices?

Mr Woodward—We have consultative mechanisms where all of the parties are involved. There are informal mechanisms available. I chaired a national consultative committee meeting with about seven or eight of the major players yesterday. We are consulting all the time with industry.

Senator LUNDY—I have a couple of questions about your underlying transaction costs. To what degree does Customs currently subsidise the activity of processing a request or approval through Customs? What are your internal costings?

Mr Woodward—Are you talking about the charges we impose? Are you talking about the charges which we collect on behalf of Tradegate?

Senator LUNDY—No. I am talking about what your costs are, and then I will ask you about what charges you impose.

Mr Woodward—We have very sophisticated, I think by Public Service standards, methodologies in relation to cost attribution. We use a cost attribution basis to impose a charging regime on those things which we charge for. There are many things that we do which we do not charge for. For example, anything related to exports we do not charge for, and that was a government decision and it is in legislation.

Senator LUNDY—Is that going to change?

Mr Woodward—I have not been told, if it is.

Senator LUNDY—Let us know if you are told. Please, keep going.

Mr Woodward—That is basically it. In other words, we have a methodology that enables us to construct costs for what we do and then attribute those for a whole array of tasks, including charges.

Senator LUNDY—To what degree do your actual costs reflect the charges that you apply, and do you currently differentiate the charges between different clients?

Mr Woodward—For those activities which we charge for, they are built up from that costing methodology.

Senator LUNDY—Is it user-pays at the moment or do you subsidise it?

Mr Woodward—For those things that we charge for, there is no subsidy. We charge, in essence, what our estimated cost is as a reconciliation that takes place at the end of the year. Certain amounts go into consolidated revenue. We get the other part of it through appropriations. It is a taxing piece of legislation, unlike some other cost recovery approaches.

Senator LUNDY—Can you take on notice to provide me with a document that outlines your cost recovery strategies currently and what is proposed to change with the Customs connect facility?

Mr Woodward—Yes, we can do that.

Senator LUNDY—Thank you.

CHAIR—In your submission at 34(h), second paragraph, you refer to the importation of skilled staff by EDS for their IT sector. Can you advise us—or take on notice and provide us with a list—of the skills that have had to be imported to meet the needs of your contract?

Mr Woodward—Yes, we would need to provide that separately.

CHAIR—I note also in paragraph 11 of your submission your comments in relation to the provision of information. I also note your comments in relation to the commercially sensitive aspects of your contract. Can you provide the committee with a copy of your contract with EDS?

Mr Woodward—That question was asked at the Senate Legal and Constitutional Committee hearing and we are in the process of answering it. We will provide the same answer to this committee—whatever the answer will be. We are in the process of getting clearances.

Senator LUNDY—I look forward to having a look at it.

CHAIR—The point has been made to me that, if you provide it through estimates, it is automatically public. It will not necessarily be the case if it is provided to this committee.

Mr Woodward—No, there is a policy issue implicit in your question and the approach that we would be adopting would be the same for both committees.

Senator LUNDY—Can I suggest that it is not a policy question; it is a question of parliamentary accountability. You have the opportunity through this committee to request a level of confidentiality. What I suggest is that you take the opportunity. It is not a question of government policy, whatsoever.

Mr Woodward—No, I did not say it was government policy.

Senator LUNDY—Well, whose policy are you implying?

Mr Woodward—There are policy angles in it and I have noted your request, Chair.

CHAIR—Can I also ask you, Mr Woodward, whether or not you have had any contact from OASITO in relation to this matter and have they provided you with any advice with respect to the provision of the contract?

Mr Woodward—I think there have been informal discussions.

Mr McNeil—Customs rang OASITO to check what their position was. They did not approach us.

CHAIR—They did not approach you?

Mr McNeil—No, it was the other way around.

CHAIR—Did they provide you with advice—presumably, not to provide the contract?

Mr McNeil—They gave some formal advice about what they were doing at the time. This was several weeks ago. We will need to see what they are doing now. I do not know.

CHAIR—I do not have any further questions at this time. Thank you, Mr Woodward, Mr McNeil and Mr Holloway.

[4.40 p.m.]

GROWDER, Mr John, First Assistant Commissioner IT Services, Australian Taxation Office

JONES, Mr Bruce, Second Commissioner, Australian Taxation Office

LEACH, Mr Robert, Assistant Commissioner IT Services, Australian Taxation Office

CHAIR—Welcome, gentlemen. Do you wish to make an opening statement?

Mr Jones—I will make a brief statement by way of introduction. Thank you for the opportunity to do so. We have put forward a submission. We believe that addresses the issue that the committee have indicated they wish to have addressed, and we are happy to explore that further in whatever way the committee wishes to do it. By way of context, it might be worth saying to the committee that the ATO has had a very substantial change agenda program for a long time, and in fact the government outsourcing initiative was but one of those. At times when we are in discussion I suspect we may get interdependencies between those programs, and it might not always be as clear-cut as just being able to talk about the IT outsourcing initiative because quite a range of things have gone on over the last few years. It may not always be possible to isolate the IT outsourcing issues in a perfect sense. We are happy to try, but I am just pointing that out.

Secondly, although the central management arrangements for the whole IT outsourcing initiative were under the control of OASITO, from the Taxation Office approach it was always one of us including substantial research on our own; it was one of active involvement in the development of the RFT and the evaluation of that RFT; there was very detailed transition and handover planning with fairly intense management from both the ATO and EDS; and, finally, I think we have taken very seriously ongoing management and assurance processes to get the arrangements in place. The reason I say that is that I think the ATO approached the IT outsourcing initiative recognising that it not only had to manage the initiative within what it had to achieve but also had to ensure that tax administration went on with regard to that activity. It had to experience minimum impact during that transition period. I think they were important parameters in our thinking. We believe the ATO achieved the outsourcing initiative with minimum impact on tax administration.

I have to say that, in modern tax administration, IT is an all-pervasive part. I do not think you can do modern tax administration without IT. That is underlying. We have come at this very much from a tax administration point of view. John Growder and Robert Leach have accompanied me today, and we are happy to answer any questions that the committee may have.

CHAIR—Thank you, Mr Jones.

Senator BUCKLAND—For someone who is still grappling with the biro pen and carbon paper, can you give me a very quick and easy history—because I am reasonably new to the

system—or an appraisal of what you have been outsourcing since 1995 up to the point where someone made a decision that you were going to go in with the outsourcing system in general?

Mr Jones—The word ‘outsourcing’ can mean many things to many people.

Senator BUCKLAND—Of course.

Mr Jones—In a broad sense in this territory, and others may want to add some more information here, we had had some development of applications—that is, development of computer programs—that we had on occasions sought assistance with, and we also had the maintenance of what is called the desktop, or basically the equipment that is on people’s desks. That maintenance—just to do that—had been outsourced to a third party provider. I might need to fill in a bit more detail, if that is what you require, but in essence that maintenance was broken machines or malfunctions of one sort or another. In essence, that is what the maintenance was for.

Senator BUCKLAND—At some point in time, though, someone woke up and said, ‘We’re going to outsource.’ It was probably OASITO. When did they first approach you and was their approach to you, ‘We want you to be a part of this outsourcing program’? Or was it that you went to them and said, ‘Look, we’d like to join in’? I do not think so, reading your submission.

Mr Jones—In our submission, we did indicate that we had been considering whether or not there was any benefit in us working with other agencies around sharing or looking for other opportunities to actually manage the IT resources that we had and they had. The trigger, if you like, was the government’s stated policy and intention of actually outsourcing IT. Is that the point?

Senator BUCKLAND—Your submission indicates that you really would have preferred to have gone it alone. Can you elaborate a bit more on why you felt that that was more suitable for the Taxation Office?

Mr Jones—You use the term ‘go it alone’. All we were trying to do was inform the committee that the environment that we were in was one where a clear government decision had been made about how that would go forward. We were happy to comply with that; we understood that. All we were saying was that, had been the case, we believe we had the capability—the skills and experience—to do that work ourselves.

Senator BUCKLAND—When you were going through that process preparing yourself for outsourcing with OASITO, who was involved in assessing what would need to be done to bring you into line with other cluster groups or whatever?

Mr Jones—I do not actually recall the evolution of the clusters per se. Someone may have to give me a little bit of assistance there. But in my mind, while we had been doing some work with other agencies, once we actually moved into this outsourcing initiative, the tax office alone basically became a single cluster—a single entity cluster, if you like. I do not know whether anyone else can expand on that further.

Mr Leach—It is several years ago now, but—

CHAIR—The statute of limitations applies!

Mr Leach—Yes, the years go by very quickly. As I recall, following on from the client's first report, there was some work done around clustering. That was the first time that people looked at clustering, and there were a whole host of options looked at concerning clustering. That was the start of it, to my knowledge, and there were a number of iterations. Where the ATO was in clusters way back then I could not tell you, but certainly that was when clustering first started.

Mr Growder—If I could just add to that, when the scoping exercises were performed prior to the government making some announcements as to their views on policy, there were a lot of options put forward as to how people may be joined together to make marketable amounts of technology attractive to outside companies. Some were related to the size of the organisation and some to natural synergies between various government departments. So there was a range of discussions in that area. I do not believe that we were actually a party to any of the decisions as to how that finally worked out, apart from our saying informally that our preference was to be a cluster of one because of our size. I am not aware that we provided any particular advice in that area.

Senator BUCKLAND—Let me say that a lot of credit can go to the ATO for the way they handled things like the supposed Y2K difficulties that we thought we would have and things of that nature. Going back to 1995, when you first went into this and decided to outsource—as you have explained to us, and I understand that reasonably well—did you have in mind any cost savings that you would be able to achieve by doing that? Did you have an objective as to what you could save by outsourcing?

Mr Growder—At least one—and the example that I am referring to is the one to do with the maintenance of our desktop at the time—was a tender process. As part of the tender process we received responses from a number of companies, and we would always compare the responses from the companies with what were the costs at that particular point in time. So we did at that stage know what our cost structures were for supporting the desktop, and cost would have been one factor in there. So, yes, we did understand those costs relative to what was being offered to us at that particular point in time. So cost was one consideration, certainly.

Senator BUCKLAND—So it was a consideration. I do not know if I am jumping ahead too quickly with this, but would the cost savings have been smaller or greater had you continued to go your own way, or have they been greater or smaller because you have joined in with the OASITO structure?

Mr Jones—Can I ask for a bit of clarification because I do not want to confuse the issue. In Mr Growder's answer we are talking about the maintenance of the desktop. That was something that we carried on as an initiative.

Senator BUCKLAND—That was one stage of it, though.

Mr Jones—If I can say this, it is wrong to see it in that sense. It was a management decision in the operation of the tax office that this looked like a thing that was worth pursuing for various reasons, one of which, as you heard, was for that cost saving, so we pursued that activity as just one of many management decisions about how we would deploy our resources.

Senator BUCKLAND—Can I restructure the question, perhaps.

CHAIR—Senator Lundy has to go shortly after five, so if you do not mind I will give her the call and come back to you.

Senator LUNDY—Thank you. I want to hark back a little in time now to when you were first discussing through, I suspect, originally OGIT and then OASITO your contract and the role of Shaw Pitman. Can you describe to me from your perspective what Shaw Pitman's role was during that negotiation phase?

Mr Jones—Without being pedantic, all our dealings were with OASITO.

Senator LUNDY—I can just remember the original time frame.

Mr Jones—We can give more detail but, just to paint a broad picture to start with, Shaw Pitman were there as an adviser to the process. They provided advice to us around a range of things. They particularly provided us with legal support around that, around scope, around coverage, around experience with outsourcing. So a broad range of advice around the whole initiative was provided by Shaw Pitman.

Senator LUNDY—Was Shaw Pitman representing you?

Mr Jones—I do not think we took that approach at all. What I believe I experienced in all of that process was one where there was a group of people—OASITO, the Taxation Office, and Shaw Pitman had a part in that—all working towards achieving a particular result. So I saw it much more as a team thing with some various accountabilities in that team to do such. Let me put it this way: I never saw it as an adversarial thing in that sense that needed a representative, if I can try to convey to you what I believe our experience was about that.

Senator LUNDY—Did you ever have meetings with Shaw Pitman without OASITO present?

Mr Growder—I do not know about meetings as such. There were certainly working sessions. I would not say at all of those sessions OASITO would have been present. For example, in the structuring of the RFT and the work that would have gone into the RFT, et cetera, they would have attended some of the work sessions that would have taken us through elements of the RFT, and they would have offered us advice around the structure or this particular clause phase, whatever it may have been. So in that sense I will back up what Mr Jones said: there was a team member element bringing their level of expertise.

Senator LUNDY—Are you aware of any role that Shaw Pitman had in negotiating or having direct contact with the vendor?

Mr Growder—I am certainly not aware of that. I do not know whether either of my colleagues is.

Mr Leach—Do you mean as part of the contract negotiation team or by themselves without the presence of anyone else?

Senator LUNDY—Both. Certainly as part of the team I would presume that they would have had contact with them.

Mr Leach—Absolutely.

Senator LUNDY—But also in any separate or individual capacity; that is, to gather insights in some way.

Mr Leach—Not to my knowledge. They provided a little strategic advice. They were not our legal advisers, I should point out. We used Blake Dawson Waldron for that.

Senator LUNDY—Separately or as part of Blake Dawson Waldron contract with OASITO?

Mr Leach—OASITO offered their advisers to us and we found Blake Dawson Waldron to meet our needs, so we chose to work with Blake Dawson Waldron through the OASITO arrangement.

Senator LUNDY—So you did not engage separate legal advisers or separate strategic advisers?

Mr Leach—No. Since the signing of the contract and moving on into an operational mode, we continue to use Blake Dawson Waldron for legal advice.

Senator LUNDY—Okay, thanks for that.

Mr Jones—At that time, too, my understanding of the rules under which I was operating was that those people were available as the panel of providers, if you like, of the different skills available. The benefit that we saw in that was that they came in a package of being cleared in a probity sense and other senses, so there were a whole range of other consequences should we have chosen to with Shaw Pitman.

Senator LUNDY—You had no reason to believe they would not be representing your interests, did you?

Mr Jones—No.

Senator LUNDY—In 1998 or even 1997, we had a discussion at the estimates committee about your prior knowledge of EDS's contract with the South Australian government and, indeed, Shaw Pitman's involvement with the South Australian government. Can you confirm with me whether or not at that time of negotiating with EDS through Shaw Pitman that you were aware of EDS's performance in the contract with the South Australian government?

Mr Jones—I can remember the conversation. As I recall it, at that time we did not have anything in front of us at all on the performance of EDS. That is my recollection now and I believe that is what we said then.

Senator LUNDY—Help me out here. At the time that you were, I presume, introduced to EDS by OASITO as their having been found to be the preferred tender, did OASITO offer you any information about the prior performance of EDS either in that contract or, indeed, EDS's performance with, I think, the British Inland Revenue?

Mr Growder—I cannot recall any via OASITO. We would have had some understanding of EDS's operation with the UK Inland Revenue through our normal contacts with that agency and I cannot recall anything that was particularly drawn to our attention at that time.

Mr Leach—During the evaluation, we examined a number of reference sites with respect to EDS's ability to undertake the size of the work and the services that we wished to put in a future contract, so we were aware of EDS's performance in a number of arrangements.

Senator LUNDY—But that information was never offered to you by OASITO?

Mr Leach—No.

Mr Jones—I may be going on about this—I apologise, Senator—but our relationship with the UK was such that, when our own research indicated this was a journey we were going to take, we did have quite a bit of discussion with them about what worked, what did not work, et cetera. I was part of those discussions and they were never in the context of evaluating the provider; they were more in the context of understanding what somebody's experience was in undertaking outsourcing.

Senator LUNDY—Those conversations you had were not really directed at EDS's capability but more at what their experience of outsourcing had been?

Mr Jones—We wanted to get an understanding of what that meant in a tax administration context and the general context of anybody purchasing that type of arrangement.

Senator LUNDY—Was being advised of EDS's contracts in both SA and elsewhere, and the obvious performance issues raised in both those contracts I have mentioned, not a cause for concern for the tax office, given it was crucial information—I would contend—in determining your decision to proceed?

Mr Jones—Others might want to come at this at different levels, but we went through the processes that we believed were the right processes. We had RFTs where we set certain standards and requested certain information. We had an evaluation process that went through that and certain answers resulted. Contract negotiations proceeded, transition happened and implementation occurred, to encapsulate the process. Throughout that period we were building on our own judgments, the confidence of others and the information provided in our RFT responses and evaluations, et cetera. We believed that we were dealing with an organisation capable of doing what they were saying with a level of viability. We had certain contractual obligations as comfort for moving to the stage of actually acquiring the services. That is what

we did. I do not recall experiencing during that any abnormal level of concern about whether they were capable of doing the job or not. We certainly did not have any information put in front of us that said they were not capable of doing the job. I am just trying to express what happened.

Senator LUNDY—I think you are being very clear. Mr Growder, did you want to add to that?

Mr Growder—You enter into any new arrangement with a degree of trepidation, but you try to mitigate all the possible issues that you can by learning as much as you can about the potential traps and pitfalls along the way. We devoted a lot of time to doing that sort of thing and listening to what other people said were their experiences. I think we were reasonably confident as we came out of this process and the decision was made that we had done as much as was humanly possible to try to put ourselves in the best position. You always do that with fingers crossed because so much depends on the people that you actually are engaging with—their capabilities, et cetera—as much as just the company in a very amorphous sense. It becomes a very personal sort of thing to actually get people to perform and deliver. I think we have been reasonably successful in taking that approach.

Senator LUNDY—That relationship has certainly been identified as a critical determinant in achieving outcomes. One final point on that issue: given that it is OASITO's responsibility to you—given they effectively had a big hand in negotiating this contract on your behalf—did OASITO at any point advise you that EDS had been the subject of a parliamentary inquiry by the South Australian government because of non-achievement of savings?

Mr Jones—No, I do not believe so. We never had any parliamentary inquiries drawn to our attention.

Senator LUNDY—Have you subsequently been made aware that that inquiry actually wrapped up just prior to your commencement of negotiations? I would have to check the actual time line, but I know it occurred around the mid-1990s.

Mr Jones—At the time we had that previous conversation that you raised, whenever that was, you drew a similar matter to our attention.

Senator LUNDY—I am not asking these questions to cross-reference with previous answers.

Mr Jones—I am just trying to recall the situation. You drew that matter to our notice again at that time, and we then stated that we were unaware of that issue. I stand to be corrected, but I believe that we have struggled a little to actually identify the precise report. After that discussion and set of questions from you, we did proceed and we struggled a little to identify that particular report. That is the only reason I have not got onto that.

Senator LUNDY—No problem. Perhaps I can help you there. In terms of Shaw Pitman's role with OASITO, they were obviously—as has since come to light—paid an awful lot of money for that role. Were you in any way concerned about the role that Shaw Pitman played in providing strategic advice to OASITO, given you chose to not engage any strategic advisers of your own? Did you have any cause for concern? Concern has been raised that Shaw Pitman

were not particularly familiar with the Australian environment and market in this area. I am asking you for quite a subjective or qualitative assessment of their performance.

Mr Jones—I understand that, Senator, and I am not sure against precisely what criteria, but I think I can answer it this way, which is as balanced as I can be about the matter. They certainly came to us represented as part of the competence that was being offered to us from OASITO, being the overall managers of this process. In the scheme of the framework we were operating in we had no reason to overtly doubt that. Without putting our own presence forward too strongly, we felt we had done a lot of homework and we were reasonably confident about what we thought would work and not work. In that process, we had views ourselves about what we thought was the right and the wrong answers, and I believe we worked many of those through. I do not think that, at any time, we had a sense of helplessness, if I can put it in that sort of tone. They were there and their advice was valued. Their advice was not just taken at face value; we passed it against our own sense.

Senator LUNDY—How did their advice stack up? Some times it was good? Sometimes it did not stack up? What? A bit of both?

Mr Jones—As you would well know, Senator, there are many opinions across the spectrum, so at times you would have different views about finer points, or even different technological views at times when the issue ranged across many things. Others worked closer than I did, but from my point of view it was competent advice.

Mr Growder—I would say that they represented a competent team. There would have been some differences, as has already been said, in the Australian context, and those elements were discussed. Where our operation might have been different, there would have been a range of debates around those things. Those things were resolved.

Senator LUNDY—Would you describe Shaw Pitman's role as being essential to the process?

Mr Jones—I find that a little difficult to call because I am not quite—

Senator LUNDY—Just from your experience.

Mr Jones—I believe you would have always needed some high quality support in there, even to the extent—it was raised earlier—that this might have been an initiative we took solely on our own in that sense. We certainly would have retained a range of expert advice to us. I have no reason to doubt that Shaw Pittman may have been one of the contenders, if that was the case. I do not quite know how that would have all washed out. So in saying that I think they did play a role, because you would need that sort of advice in there. I believe they were competent in doing that.

Senator LUNDY—Moving on to the question of savings, on page 130 of the auditor's report is a table which identifies the estimated savings in cash outlays for the ATO at \$39.1 million. The next column identifies the agency cash budget reductions at \$76.3 million. Finally, the difference was obviously a negative—\$37.2 million. How does that stack up with your assessment? I notice that in your submission you are realising savings. In your submission you reference the ANAO report as well. Perhaps I should couch the question in this way. Given that

table, and the fact that your agency cash budgetary reductions significantly outstrip the estimated savings in cash outlays under the agreement, where does that leave Tax—in the red?

Mr Jones—This is not a simple answer. I think there are questions of different accounting treatment, without going there. So I am not sure we can directly compare the numbers. Secondly, the arrangement under which we operate is an agreement with the Department of Finance and Administration over three years. The benefits that we were to derive from outsourcing were part of that agreement. So we ended up with an envelope of funds, or an agreement over that three-year period as to what would be provided to operate the tax office for certain outcomes. That is what we are operating, with various other changes that have come along the way, with different appropriations. Nevertheless, that is the base which we are operating to. In that sense that was the agreement under which we went in to operate for those three years. So trying to respond in the construct that you give me gives me a bit of a problem because it did not in an absolute sense leave us in the red in that we did not achieve it. There were a range of issues there which were the definers of what value would be set for that arrangement, or that package with the government or with the Department of Finance.

Senator LUNDY—Perhaps I should ask the question this way. If we put notionally another column in that table which said, based on experience to date in the contract, ‘What are your actual savings realised?’ are you able to give me a figure?

Mr Jones—Not in an absolute sense, no. I think we have discussed this before from the baseline we established at that point. We have attempted to do some monitoring against that baseline and it shows that there is a degree of delivery against that baseline. So we believe we would have achieved savings if that baseline had remained the same.

Senator LUNDY—But we all know it didn’t.

Mr Jones—I am not trying to hide behind that.

Senator LUNDY—I know.

Mr Jones—It is difficult because the world changed. It is difficult to continue to reconstruct the world as it might have been—if I can put it that way. Again, I put it as a judgment call based on the evidence that had been put to us. We have had independent people look at this, and they have come to that view. That is what I based my judgment on.

Senator LUNDY—I am not sure whether to ask this in the context of the estimated savings or actual savings, but could you give me a breakdown of the proportion of those savings that can be attributed to competitive neutrality measures—that is, the additional revenues realised by government through company taxes paid by EDS and associated contractors?

Mr Jones—Do you want that now?

Senator LUNDY—Yes—that will save you doing it later.

Mr Jones—It might just take us a minute or two to retrieve it.

Mr Leach—I do not have the information with respect to company tax because I am unaware of how much company tax EDS pays. With respect to the competitive neutrality components that were in the OASITO model, approximately nine and a bit million dollars is associated with tax that would return to the government.

Senator LUNDY—And that is in relation to that estimated figure of savings in cash outlays, is it?

Mr Jones—Do you mean the \$76 million?

Senator LUNDY—No; the savings estimates, as opposed to the agency cash budget reductions.

Mr Jones—Do you mean the savings from the contract which were identified when the contract was announced?

Senator LUNDY—Yes; the \$9 million was identified then as being the competitive neutrality factor.

Mr Jones—That is correct. It was a component of competitive neutrality.

Senator LUNDY—Can you provide a further breakdown of that figure, including other aspects of competitive neutrality? For example, were redundancy costs factored into that amount?

Mr Leach—Redundancy costs were factored into the financial modelling.

Senator LUNDY—Was it accurate?

Mr Leach—The redundancy expense?

Senator LUNDY—Yes.

Mr Leach—Yes, I believe it was.

Senator LUNDY—Can you provide a figure?

Mr Leach—Our redundancy expenditure was \$9.87 million.

Senator LUNDY—What about the asset sales—the sale of your hardware? What was that valued at at the time of signing?

Mr Leach—Tenderers were asked to nominate a value for our assets, and \$15 million was set aside for cash return on the sale of assets.

Senator LUNDY—Is that an accurate valuation of your IT infrastructure assets?

Mr Leach—I guess it depends on whether you look at the market value or the book value.

Senator LUNDY—Give me both, and we will make the assessment as to whether it was real.

Mr Leach—Market value is an extremely difficult thing to determine because, obviously, it is based on what the market will bear. I guess it was the market value because that was being offered—the \$15 million.

Senator LUNDY—Is it market value for the existing equipment or for replacement costs?

Mr Leach—The market value—the second-hand value.

Senator LUNDY—So, if the ATO was required to purchase new equipment, it is not about replacing it?

Mr Leach—No, not at all.

Senator LUNDY—Were you responsible for negotiating that asset value with the vendor, or was that out of your hands?

Mr Leach—The RFT just asked for the vendor to provide a sum for the purchase of the assets, so it really was not a negotiated issue. Because of the way the pricing is structured, whether you received a dollar or whether you received many dollars, you would be paying it back over the term of the contract or the term of the capital recoupment component of the individual items anyway. So, in some sense, if you paid many, many millions you would be paying that back over the appropriate capital payback period in the contract, because the service charges are made up of a capital component as well as an ongoing component. If you paid a dollar, it would be a dollar that EDS would be seeking to recoup over the period of capital payback.

Mr Jones—In essence, that price quoted was all part of the financials of the whole thing.

Senator LUNDY—I appreciate that. I guess the issue of concern is: what are the end of contract implications and what status do those assets have at the end of the contract? Obviously this goes to the core of the financial methodologies in the Audit Office report. I confess that I am not an expert, but I am particularly interested in the implications of that methodology for tax for the assets—what is essentially, as you say, almost an arbitrary valuation of the assets at the time of signing as far as tax is concerned. Maybe where we need to go with this is: tell me where you will be at the end of the five-year contract if, for all of the appropriate reasons, Tax makes a determination not to continue their contract with EDS.

Mr Jones—Prima facie it occurs to me we would have three options. One, look for another outsourcer, which may be the case. Two, we begin to reacquire an infrastructure—whatever that might mean at that time. To do that, the option fundings available to the Taxation Office would basically be two: use funds from our capital budget and our capital holdings that we had in our financial system to acquire the infrastructure or seek funding from government to do so. Those would be the three arrangements that were possible.

Senator LUNDY—So you are pretty exposed.

Mr Jones—First of all, we have a range of things to keep attention on the outsourcer in terms of the life of this contract around what can be done in terms of that pricing. We have options to renew and we have options to move into new territory with other providers. There is no exclusivity there, so one of the things for us to be a responsible manager is to ensure that that tension is healthily maintained. So I think there is that issue that bears on the matter. Secondly, it also requires, as we will do, strong planning about just what that set of circumstances is and what the situation is. So it is a question of continuing to look at it now, although we are still in the front end of the contract. These do not get a lot of airplay but they are questions that are in our mind from time to time as we are planning, and we will start somewhere around the beginning of year four, I suspect, to become more intense about what we are really going to do there.

I would not say we are exposed. I think there is a fair bit of intention we can apply to this process. We are dependent on others for some of those decisions—without being in contempt of government or parliament or something; I am not trying to do that—but there are a range of those things that may or may not be easily negotiated when the time comes, depending on what the circumstances are. So I say that. Thirdly, what would be the primary drivers for us wanting to repurchase those issues would be pretty serious matters and therefore fairly persuasive in carrying an argument as to why the reinvestment should be made.

Senator LUNDY—What proportion of the value of your existing contract with EDS is spent on merely maintaining your legacy systems or legacy technologies, as I have described them in forums like this—your mainframes and all the bits that hang off it—and how much of it is actually attributed to some strategy to upgrade, move ahead and break new ground?

Mr Jones—There are a whole range of different ways. I will start off and perhaps others may be able to provide further detail. In essence, we run on a single technological platform in the tax office, and we have since we started that major modernisation process in the 1980s. That has continued to be refreshed and it has grown and had new technologies applied to it and so on. In our language, legacy systems largely apply to those applications that run on that infrastructure, not to the infrastructure itself, because we believe that we have sustained that infrastructure at a reasonably modern level that is commensurate with prudent management, and we continue to sustain it so that it will run those legacy systems. At the moment, the legacy systems are there, and the truth is that there are some applications that were running in 1985 that are still running right at this very minute and that have successfully made a range of transitions across technologies, through Y2K and a range of other things, to this point.

We are therefore focusing on this particular contract with EDS, around that infrastructure. There are a range of provisions in there for refreshing, for sustaining that infrastructure at a modern level. Our decision making is such that, when we come to major new technologies or major technological upgrades, they are responsible for the decisions that have to be taken as to how well this sits with those applications. I have to say that, in this world that we live in, managing that information technology transition is something that you just have to do. You cannot have your head in the sand and say, ‘I am here; therefore I am never going to move.’ You have to be constantly working to keep your legacy systems going. Even though historically they are old, in another sense they also have to be new to be able to operate in whatever today’s

environment is. That is a broad overall view. I do not know whether there are more specifics that we could perhaps provide.

Mr Growder—Just to come back to the question, to make sure I have the essence of it, EDS do not get involved in the maintenance of systems in terms of the applications side of our business, but certainly they are involved in providing the operational support. So it is the infrastructure there.

Senator LUNDY—Thank you for that clarification. With respect to the scheduled technology refreshes in the contract—and I understand these may relate primarily to desktop and mid-range to a degree—have you had any cause or reason to consider not going ahead with a scheduled refresh?

Mr Growder—I will ask Mr Leach to answer that in a minute, but at this point, no. The refresh that comes to mind that we are progressing through currently or just coming to the conclusion of is really around the desktop. In actually putting in those workstations we have gone through that particular process or are coming towards the conclusion of it. There may be some issues that we have got to face as an organisation around some of the software refreshes—only in trying to position a good time to do this relative to the rest of the business of the organisation.

Senator LUNDY—I can understand the challenge.

Mr Growder—We have small windows in which to do large things, and that gives us some problems in trying to do something sensibly. So I think we have got some things to grapple with in that area.

Senator LUNDY—Just to put in a bit of realism about that, are you talking about things like changes to the BAS and those kinds of operational challenges that might get in the way of an application upgrade and policy decisions that directly impact on the work of Taxation Office staff?

Mr Jones—That was part of what I was trying to say in the opening statement. In the end you have to manage the whole thing. You cannot manage—

Senator LUNDY—I know. I am just trying to create a tangible example of what could conceivably impact on your day-to-day work and your opportunity to upgrade.

Mr Jones—Our intention is not to do that. It would not be our approach to say, ‘We cannot do that because of such and such.’ We would be saying, ‘What do we have to do about our scheduling? What do we have to do about the interdependency of a whole range of projects?’ We have hundreds of projects running concurrently, with interdependencies. It is the intentional management of those that gets you there. It is no good leaving that off because sooner or later we will have to do a major operating system upgrade on the desktop. As I said before, if we are not careful, we will get caught in the vicious circle of saying, ‘We haven’t got the time to upgrade that application. We haven’t got the time to update.’ That is when you get into serious trouble. We include this activity and upgrades and refreshes as part of our tasks and not as something we do when it is convenient, if I can put it in those terms.

Senator LUNDY—That is fine. I have one final question relating to penalties and sanctions. You can take it on notice. Could you provide us with an up-to-date as possible assessment as to the service credits that have applied to EDS and the dollar value of those penalties? Could you break it down and attribute them to the breaches that have occurred that have resulted in the penalties? I also asked the previous agency to, within that, provide some meaningful and qualitative description of the breaches that are occurring, and particularly the impact on the day-to-day efficiencies and productivity of staff and employees. I would also appreciate some comment about the impact of IT outsourcing on staff morale.

Mr Jones—We will do our best on that. I think we included that survey in our submission. There is some acceptance increasing there—an improvement in that. Morale is a complicated thing to be overt about in that sense. That is the most coherent measure we have at the moment.

Senator LUNDY—That would be most useful. That is all the questions I have.

Senator BUCKLAND—Is the contract with EDS more cost efficient than the ATO carrying on its own business in its pre-outsourcing mode?

Mr Jones—Just to go back to what we were saying to Senator Lundy, we set a cost base at the beginning of the process and we have attempted to revisit that as though the world had not changed because that was the only thing we could do. We have had a consultancy look at that and they have come back with the view that it is. Our judgment is that where we are today is cheaper than where we would otherwise have been.

Senator BUCKLAND—Right. Is EDS better at servicing the IT equipment—the desktop equipment, things that I can physically see, the mainframe where it all happens—than you? You said that they were not providing the maintenance services. Would that also be outsourced through EDS?

Mr Jones—No. With all of the examples you gave—the desktop, what happens in the mainframe—that is what is operated by EDS. The computer programs that run on there we develop ourselves inside the tax office—that is, we develop them and they run on that equipment. At the moment, we do an awful lot of the development of those programs ourselves. We do use some other providers to do that. I need to make that as the starting point. As to whether EDS is better at operating that equipment, I do not think we have any other criteria, if that is the right word, to make a judgment about that, other than the financial one we talked about and the fact that it delivers the sort of service performance we have in the contract, which is what we defined as what we needed to do our work. It is a difficult call. I honestly do not think I could tell you whether they could do it better. I can only say it delivers to the performance that we ask of it and we believe it is doing that at a cheaper price than we would otherwise have been paying.

Senator BUCKLAND—I think the evidence is that you did not take part in the development of the tender arrangements, that is, the contract between—

Mr Growder—Yes, we did, Senator. We were involved.

Senator BUCKLAND—At what stage?

Mr Growder—From the beginning of the tender negotiations we were involved. Can I just add one fact to Mr Jones's response to that last question. A large number of our staff actually transferred to EDS or were employed by EDS. I am not making a judgment in any respect there, but I think there is some sort of relationship in that question that just that very fact probably helped in our transition, which has been an ongoing feature.

To come back to your most recent question, in the negotiation phase for the contract there was a negotiation team that did go through the process, and Mr Leach was a member of that team. As part of that process, there would have been all the planning involving OASITO, the strategic advisers, et cetera in preparing a strategy for negotiations. We felt that we needed to be involved in those things because ultimately we are going to wear the result; we have to make this work. That was a very important consideration all the way through the process. If we were going to find ourselves in the situation where the services were outsourced, we were the ones who had to be in a position to make it work.

Senator BUCKLAND—Were you involved in the decision to choose EDS over any other provider?

Mr Growder—Yes, we were. As part of the evaluation process, and following the process through, the tax office was involved in the decision around that as far as making recommendations. The recommendations would have said, 'EDS over and above the other contender.' The final decision is made at ministerial level and would have involved input out of the industry development process. So it was not only what we particularly were concerned about in the operation but also the industry development element.

Senator BUCKLAND—Even though you were involved in that, you were not aware—I think this was your evidence earlier—of the difficulties that EDS and the South Australian government were having with their arrangements.

Mr Growder—Not aware in the sense that Senator Lundy was talking about.

Senator BUCKLAND—Had you been aware of that, might you have taken a different approach?

Mr Jones—I do not know whether the outcome would have been any different, but we did take into account references and other things that were provided as part of the process. Certainly, had we been aware of it, we would have taken it into account—there is no question about that, if it did come through as part of the framework of the process.

Mr Growder—We did follow up a number of references, and early in the process we did speak with South Australia. I think it was prior to the event that Senator Lundy was talking about. So we had some sort of understanding of the early operation of outsourcing in South Australia, not so much about EDS's performance in that area.

Senator BUCKLAND—In the choice of EDS, did it come down to a short list of two or three companies?

Mr Growder—Yes.

Senator BUCKLAND—Were you able to evaluate those without the input of OASITO? Were you able to set up your own reference?

Mr Growder—No. Again, it goes back to Mr Jones's earlier answer. It was very much that OASITO, ourselves and strategic advisers—and there may have been others—were very much a part of a team. It was all done in that sort of framework.

CHAIR—But is it not true, Mr Growder, that in your submission you are critical of the process and the lack of control and management that you were able to exercise over it—not you personally? In the submission, that is the clear message that comes through.

Mr Jones—Perhaps I need to be clear about what we are trying to say there. First of all, we are saying that we believe we had the capability to do that task—we could have done it. But I also think it is wrong to construe that to mean that we were not willing to participate in the process that was there. We went into that process with open eyes and with all our competence, and we put our best foot forward. Inevitably, when you are dealing with something as complex as this—it is not small matter; it is a big matter—the more parties that are involved, the more complex it is. That is what we were trying to say: it was more complex for us, because there were more parties involved.

Senator BUCKLAND—I guess that is what I am trying to say. Did you at that time say to OASITO, 'Look, we think we can develop our own program that meet your criteria'? Were you given the option or did you try and push for that option?

Mr Jones—Probably 'try and push' for it is not the right statement to make, but we were very active participants.

Senator BUCKLAND—I understand that you were active participants—you have said that and I have picked up what you said earlier—but the difficulty I am having is that, having read through your submission and having spent a little time with it, some of your answers today are not convincing me that the authors of the submission are before us today. There seems to be a different tone.

Mr Jones—Okay, well—

CHAIR—Fess up! Who is the author of the submission?

Mr Jones—I would only want to reconcile that; I would not want to leave that hanging, because that is not our approach.

Senator BUCKLAND—I hope you do.

Mr Jones—To the extent that we are not being clear, we need to work away between us in getting there, because certainly we are people who had a lot of involvement in that process. We tried to answer the issues that we thought were relevant and to be open to the committee about what our views were. There is no attempt on our part to try to be different here.

CHAIR—Can I just come at it another way, Mr Jones. In 6.6 at the top of page 6 of your submission you say:

The ATO's preferred risk minimisation strategy had been to split the outsourcing of its IT&T requirements into discrete components for a staged implementation program.

That is not what happened under the OASITO model and you have now had the benefit of that experience. Is it still the view of the Taxation Office that you would prefer to do it this way? The Humphry recommendations would allow you to go back to that model.

Mr Jones—Other times and places are sometimes hard to reconcile. Our view when we went into that process was that we would have been able to mitigate the risk in certain ways if we had been able to break it into components. When we became involved in the process, we were taken down the path of doing that in a total package. The point that we were trying to make there was that we saw it as a higher risk option. But we then had to do some things to mitigate those risks. Again, I am not trying to doublespeak here; I am just trying to make it clear that we had to try to be fairly realistic. While this was probably not the way that we had originally intended to go, when we end up there, we actually put a big effort into making sure that we minimised those risks and put in even more effort that we might otherwise have done. I honestly have to say to you that we have not done a comparative evaluation in reverse—whether we would have got a better or a worse result in hindsight from doing in it in components or doing it as a big bang. I guess we were just trying to reveal to you that we went into this process with a slightly different approach and we actually managed it in the way that, in the end, the process required. That is the message that we were trying to convey.

CHAIR—I understand that. I am not necessarily trying to position you here, but we do have to prepare a report for the Senate. We have had the ANAO audit, the Humphry report and the benefit of the OASITO experience. But, as you point out in your submission, you have probably had more experience in this area than most government departments or agencies, going back over quite a considerable period of time. I suppose I am trying to get an evaluation from you because, at the end of the day, you are the consumer, you have gone through this process. If you had to do it again in three years time when the current EDS contract expires, has the experience been such that you would be comfortable with continuing with it, or would you look to going back to the sort of environment that you referred to in 6.6 of your submission?

Mr Jones—Having gone through that process, I think we learned that we might have taken a slightly more cautious approach. To be honest, to try to give you that evaluation, we may have taken a slightly more cautious approach. We did have experience which told us, for example, what worked and what did not work. We did our research to try to find out what was good and what was not good. As I said, we may have taken a lower risk approach. Discussing where we have got to may perhaps help you with some insight. In a sense, it might be more objective for you to have this view than us. We have got to the point in the contract where the carriage component is actually a shorter time frame—it is only a three-year contract as opposed to a five-year contract. That was intentional on our part, and one of the things that we believed put some tension into the process and gave us an option part way through the contract to put that end process to the test. Senator Lundy raised the question before: how vulnerable are you at the end of this process? So that carriage component that is in there for three years is a bit of a way of us testing or practising what the end of that process might be like. Otherwise, we would not have any forewarning or experience.

So, from our point of view, I think we found ways to mitigate that risk. If I go back again to why we were thinking about that strategy of componentry, it was partly around how we could manage these things without getting locked in—to put it in the crudest language. So there was a sense of: what is a reasonable number of suppliers to have to manage in this circumstance? If you broke it into 10 components, you may have 10 contracts to manage and you have a whole range of interface issues as the equipment comes together. So you get complexities between the contracts. I think we learned that reducing that number was positive. However, to then say that ‘big bang’ is the only way to go and not components is not right either. In fact, we have not set ourselves up to confront that again. We have tried to set ourselves up to at least get some experience before we get to the next large element.

The other thing I should say is that we left components inside the contract so that we can benchmark and move into new contracts with other people. In fact, during this contract, we have gone with another organisation for some of the call centre infrastructure that we used during the tax reform process. Again, from my point of view, in a high level strategic approach, that is about keeping some tensions and some options open in the system as to what we experience and understand and how easy it is to now manage two different suppliers who have to collaborate in some way because sooner or later the bits of wire come to the same point. I do not know whether we can help any further.

CHAIR—There is another factor in terms of your submission. It seems as though a significant number of former ATO staff were picked up by EDS. What percentage of the people who are servicing the EDS contract were former ATO personnel? Presumably, they are people who knew the culture of the ATO and understood the function of the office. That would have been a major benefit to you in terms of being able to flow the contract through smoothly.

Mr Leach—The table on page 8 of our submission says what the present position is. Out of the 312 full-time EDS staff currently working on our account, there are 129 ex-ATO staff working with EDS. I should say that the 129 are employees of EDS.

CHAIR—Yes, I understand that, but these are ex-ATO.

Mr Leach—A number of other staff were picked up by their subcontractors as well, so there is actually more than 129. I do not have the numbers of ex-ATO personnel that were picked up by subcontractors, but we regularly run across them in the service delivery.

CHAIR—That is a significant proportion. I think it is much higher than we have seen in any of the other areas.

Mr Leach—Absolutely.

Senator BUCKLAND—I was pursuing that other line because I tend to think that the ATO are actually hiding their light under a bushel somehow. You have been a leader in change in IT, and it surprises me that you were not given the opportunity to develop your own strategies. Be that as it may, it has occurred. You have answered the questions. I just think you are underrating yourselves.

Mr Jones—Without trying to bring that light out improperly, I make the point in the submission that we had already begun thinking down that path and looking for other opportunities to get cost reductions, improvements and leverage with other people. We had in fact had that initiative. I need to try to convey to the committee that, from our point of view, we came to a point of government policy which said, ‘This is the process you will use,’ and that is what we did. I would not want to convey that we, at that point, in any way submitted and said, ‘We’ve got no control of this.’ The message I have been trying to give the committee is that we then did apply all our best skills to make sure the tax administration got the best possible outcome from that process.

CHAIR—I understand the distinction you are trying to draw.

Senator BUCKLAND—You have satisfied my curiosity. Looking at the human resource side, which is always an interesting side in things like this, you mention the cultural change. Can you expand on some of the difficulties you had with that? If I am correct in my knowledge of outsourcing in various industries, it would not have been a really happy period of time that you went through. Can you explain some of the difficulties you faced?

Mr Growder—In preparing ourselves for whatever the eventuality would be, whether it was outsourcing or not, we actually recognised that, as a service line within the tax office, we needed to operate in a more commercial orientation anyway. So prior to any decision around outsourcing we did start to operate our staff in a way that would mirror how outsourcing could operate, and to develop some of our processes and procedures in that way. That led us then to start to think about what was going to be different and what we would need to prepare for in our people. Around the people who were what we would call in scope and potentially going to be outsourced, we allocated some senior resources to the extent of an SES officer to work with them to prepare them for whatever might be the eventuality. They had all the support we could give them through the process until the decisions were made. At the same time, we had to prepare the people who were not in that category but who would need to operate in an outsourcing environment. We spent a fair bit of time trying to educate people and talk through issues with them. Even while you do that and try to prepare people as best you can, when the day finally comes and you hand over, it becomes very real and the words that you have used before actually take on a new meaning, even though you have used them many times before. Mr Leach might have some other elements to help with that.

Mr Leach—One of the things we learnt in our discussions with organisations that had outsourced before was that most people provide a whole lot of energy towards taking care of those who were primarily affected—that is, those who were in jobs where those functions were going to be outsourced. They said that to focus so much attention on them and so little attention on the cultural change that would happen inside the organisation following outsourcing was somewhat of a mistake. To that extent, we tried a number of avenues of communicating to a wider audience within the tax office what outsourcing meant. SES officers visited state offices and our branch offices to inform people about how we might have to take a more disciplined approach to the way we use IT resources, because we were going to be in a more commercial arrangement—notwithstanding the fact that we tried to move ourselves to a more commercial arrangement. Clearly, people were busy at the time and, as Mr Growder points out, while they might have listened to what we had to say, they did not necessarily hear it in a practical sense. So we had some issues immediately following outsourcing about practices and procedures and

about how we might do business that we had to deal with in the first few months. But overall we had a strategy for those that were in scope and we had a strategy for the rest of the organisation. We could have probably done a little better on the rest of the organisation, but we did substantially more than other organisations that we were able to talk to, based on their experience with that process.

Mr Growder—A very practical example that would occur anywhere—and I am sure it even occurs in your environment—is that we depend very much on personal networks for getting a range of things and getting advice, et cetera. In the computing side of the organisation a lot of work went on through personal networks and, as soon as this group of people who could actually service those requirements left and became a part of a commercial organisation, a request, rather than being a personal request, became a commercial transaction, and that in itself meant it and the information around it had to be recorded, et cetera. While we talked about that and what that would mean, the reality of it did not actually strike until that had happened.

Mr Jones—I agree that the emotional issues are there behind that as well. People have the fears and the trepidations—‘What is going to happen to me?’ We had a couple of different things that are worth sharing. One is that I think we are in a fairly buoyant industry, so to some extent that was a help in itself; it was not—

CHAIR—You will never go out of business!

Mr Jones—My point there is that that makes it a bit easier than it does in some other circumstances. People had skills that were valued very strongly, so in a sense they had a degree of self-confidence that would have helped. Secondly, the people who were managing the process sent timely circulars out trying to explain to people where we were up to with OASITO and what was happening. We did go through some periods, as you do in projects, of indecision—or non-decision, should I say—where people were expecting that we might resolve this by the end of the month, and that did not happen; it actually did not happen until some time later. People did their best to keep people informed that that was what was happening. My sense, perhaps from being one step removed from the process, was that not only were those managers fairly successful but, in the end, people came to accept what was happening and felt like they had some respect in the process. I hope they did, because that was our intention. I do not quite know how you measure these things in hindsight, but there was a very affable and positive celebration held at the end for those people who had actually gone as well as for those people who had stayed, and there was a quite positive atmosphere in that celebration. It was one of those areas, from our point of view, we knew from the outset that we could not spend too much time on and that we had to be as open with people as life can be in some of those circumstances about what was happening. It was why we tried to make it clear what the termination arrangements were going to be—the clean-break policy of redundancy at the end—and we tried to give people all the support we could to make all the life decisions they needed, and that was much better done by the individual rather than the corporation, if I can put it in its simplest sense.

Mr Leach—I would like to add one small thing. Your question had some negativity around the outsourcing. Some people were actually looking forward to it, in the sense of being able to take their skills into a commercial world and into a company that was IT focused, not revenue focused. The prospect of working with an organisation that had a sole technology focus, given

that some of the people were very technology focused, was exciting for a number of people. So the emotion shifts from ‘Shock, horror, we’re going to be outsourced!’ or ‘I’m in a job that is going to be outsourced,’ to ‘Gee, this might be an exciting new start for me.’ Obviously, not everyone thought that, but the people who thought they had really marketable skills saw it as an opportunity. Towards the end, we had a number of those staff.

Senator BUCKLAND—The question may have had a bit of negativity, but we got some very positive responses. So I think one balanced the other. I do not think we can criticise each other for that. I accept what you say. My own knowledge of the process within the ATO is supported by what you have said.

CHAIR—Given the hour, I have a couple of practical questions that I need to deal with. Are you aware of the committee’s request for a copy of the evaluation reports?

Mr Jones—Yes, I am.

CHAIR—Can you describe what process the ATO has undertaken so far in providing those? Have you consulted with EDS, for example?

Mr Leach—With regard to the provision of any information, we have sought advice from EDS. Our contract puts some obligations on us around commercially sensitive information. So we sought some advice from EDS as to what was or could potential be commercially sensitive in an evaluation report. Obviously, they cannot see the evaluation report because other parties are mentioned in the evaluation report and there are comparative assessments. So we have sought some advice with regard to that, and clearly they have some sensitivities around what they see as potentially commercially sensitive information in the evaluation report, given the discussions at the level that we could have without giving away the content of the evaluation report.

CHAIR—Have you talked to OASITO about this request or have they spoken to you?

Mr Leach—We have spoken.

CHAIR—On their initiative or on your initiative?

Mr Leach—We have had a number of requests for information through Senate estimates around the provision of the contract and the services agreement. When OASITO received that request, they spoke to us with regard to the provision of information and what we considered to be sensitive. Those discussions continued along the provision of other information, including the evaluation report.

CHAIR—Have OASITO sought to influence your response to the committee with respect to those requests?

Mr Leach—No.

CHAIR—Have you prepared a response to the committee's request for a comment on the OASITO letter of last week?

Mr Jones—Which letter is that? I do not believe we have seen it.

CHAIR—It was sent to all the agencies for comment last Friday.

Mr Jones—I apologise, but I do not think we have seen it.

CHAIR—Could you follow that up and let the secretariat know when we can expect a response to that?

Mr Jones—We will be prompt about that. I apologise.

Mr Leach—Is the subject of that letter the provision of information?

CHAIR—It was a letter to the secretariat dated 8 March from Mr Ross Smith.

Mr Jones—I will follow that up. I will talk to the secretariat at the conclusion and resolve that.

CHAIR—Finally, could I get your views on the whole of government response to the ANAO report?

Mr Jones—I will respond in this way: the report was there, and our participation was sought as to whether we wished to be party to a whole of government report. In simple language, there was a series of drafts prepared and, in the end, we were comfortable with where that process got to and the response that came back. That is my reaction to it. I am not quite sure whether that is what you meant by the question.

CHAIR—Did you endorse the whole of government response to the report?

Mr Jones—Yes, I believe we did.

Mr Growder—We endorsed the recommendations that were made, yes.

CHAIR—I would draw to your attention paragraph 46, which says that the report:

... provides only a limited view that does not reflect the overall quality and rigour of the tender processes and the implementation/transition efforts undertaken for each service agreement. In relation to contract management, the Report focuses heavily on process and documentation and, consequently, encourages an overly process-oriented and literal approach to contract management that may not produce the best service delivery and value for money outcomes for the Commonwealth. It also fails to provide a balanced assessment of the effectiveness of the various processes undertaken.

Do you endorse that statement?

Mr Jones—I believe we endorsed all those comments that were put back by the whole of government.

CHAIR—We have no further questions at this stage. Thank you, Mr Jones, Mr Growder and Mr Leach. If any other questions come up, we will put them on notice or put them in writing to you.

Committee adjourned at 6.07 p.m.