

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO THE DECISION TO AWARD SERCO AUSTRALIA THE CONTRACT FOR THE PROVISION OF NON-CLINICAL SERVICES AT FIONA STANLEY HOSPITAL

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
TUESDAY, 3 APRIL 2012**

Members

Mr J.C. Kobelke (Chairman)
Mr J.M. Francis (Deputy Chairman)
Mr A. Krsticevic
Mr C.J. Tallentire
Ms R. Saffioti

Hearing commenced at 9.30 am

SNOWBALL, MR KIM

Director General, Department of Health, examined:

SEBBES, MR BRAD

Executive Director, Fiona Stanley Hospital, Department of Health, examined:

SALVAGE, MR ROBERT WAYNE

Acting Executive Director, Resource Strategy, Department of Health, examined:

JOSEPH, MR ANDREW

Acting Director, Budget Strategy, Department of Health, examined:

The CHAIRMAN: Welcome. On behalf of the Public Accounts Committee, thank you for your appearance before the committee today. As you know, we have some standard formalities that I need to go through. The purpose of this hearing is to assist the committee as it gathers evidence for its inquiry into the decision to award Serco Australia the contract for the provision of non-clinical services at Fiona Stanley Hospital.

The Public Accounts Committee is a committee of the Legislative Assembly of the Parliament of Western Australia. This hearing is a formal procedure of Parliament and therefore commands the same respect given to proceedings in the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any documents during your evidence, it would assist Hansard if you provide the full title for the record.

We also have a television camera on you, which is not for outside, but so that people at the back can actually see you and you do not have to feel like you have your back to the people in the audience there.

If during the course of today's hearing you feel that in responding to a question that we ask you might be breaching any confidentiality, then you need to raise that with us and we can consider then whether we go into closed session to further discuss those particular matters.

Before we proceed to the questions we have for you today, I need to ask you again a series of formal questions. Have you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIRMAN: Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read the "Information for Witnesses" sheet provided with the "Details of Witness" form today?

The Witnesses: Yes.

The CHAIRMAN: Do you have any questions in relation to being witnesses at today's hearing?

The Witnesses: No.

The CHAIRMAN: Now, I understand, Mr Snowball, that you would like to make a few opening remarks. If you wish to do that, I would ask you to do so.

Mr Snowball: Thank you for the opportunity to do that. It was simply to cover a number of points in terms of the context for the questions and answers that will subsequently follow. Essentially, the original and initial decision to test the market in respect to Fiona Stanley Hospital actually had its origins in procurement planning for the hospital, which goes back and was endorsed by government in April 2008 as part of the business case for the hospital's construction and subsequent operation. So, the department in terms of its operational decision-making followed that process. Essentially, that stated that private sector opportunities shall be identified where they are complementary to the objectives of the hospital and can support provision of an efficient integrated health service. So, that decision basically put the department on a pathway to test the market for the provision of these services at the new hospital. The decision in turn was not accompanied by any particular expectation or predetermined outcome; that is, we were under no direction in terms of a department to do anything other than to test the market in terms of value for money and we were required to make sure it was a clear and transparent process. So, we properly evaluated against public versus private provision of these services. I reiterate what we have indicated previously to the committee—namely, that my mandate as director general in terms of the service is to objectively evaluate options for the most cost-effective manner of delivering these services and to provide my best advice in turn to government to make a subsequent decision. In turn, I am satisfied that the process we followed in relation to the awarding the Fiona Stanley Hospital management contract to Serco is consistent with this mandate and government's expectations of the Department of Health.

The department has diligently responded to all of the requests of the committee for information and will continue to do so. All of the key source material now for the government's decision in relation to this matter has been provided to the committee. It is extensive and comprehensive, as you have seen, and includes the confidential commercial advice upon which government was recommended to award the FM contract to Serco. I note your letter of 28 March 2012 seeking evaluation reports for the expressions of interest and the request for submission processes used during the procurement process and a list of the documentation provided to shortlisted bidders at the RFS stage. With the committee's permission, I now table these documents and request that the two evaluation reports in particular be treated as closed evidence.

The CHAIRMAN: We will just get that clear. The two evaluation reports you are seeking to be closed. We have to make a subsequent decision on that, but I think you will find we are very conscious of not breaching confidentiality requirements. Were there other documents as well or just those?

Mr Snowball: I have further on that. In terms of the other issue I just wanted to touch on before I go to the other documentation that was provided, that relates to Paxon Consulting. I note the intent of the committee to question the department further on the use of Paxon Consulting particularly in the development of the commercial framework for the FM contractor and for developing and finalising the public sector comparator that informed the decision ultimately to award Serco with the contract. I refer the committee to a letter from Tim Marney as the Under Treasurer back in November 2011 to the committee, which identified the firms that had been approved by the Department of Treasury and Finance to form part of both the audit and financial advice common-use agreement and also the panel for client support services for commercial advice on public-private partnerships and other major projects. I note that Paxon Consulting was identified in both of those panels. So, in terms of the selection process, how did it come about that Paxon was the company that selected? In the first instance the panel was selected through Treasury and Finance through a separate arms-length process. We subsequently select from that panel in terms of the work that is done. That ensures that the qualifications, the experience and the expertise of particular companies to be included on either of those panels is a matter for the Department of Treasury and the Department of Finance. The Department of Health has no direct involvement in respect to the

decisions about firms included in either panel. These panels exist to enable agencies like us to have certainty as to the capability and performance history of those companies and to provide commercial financial advisory services and allow expeditious procurement of those services. It means we do not repeatedly go out to tender as individual departments. There is a process that really gives you a short list from which to select for the job you need. The selection of Paxon Consulting to provide commercial financial advice in relation to the facilities management procurement of Fiona Stanley is consistent with this intent and each engagement in turn of Paxon Consulting was consistent again with the relevant buying rules for these panel arrangements. Whilst there was a subsequent series of contracts let to Paxon Consulting in respect of this work, each was in turn compliant with that process. There is nothing out of the normal procurement process that we have gone through in terms of appointing Paxon to do this job.

In terms of your earlier point about commercially sensitive information, we have at all times sought through the committee's inquiry to provide the fullest information we possibly can, recognising the materiality of the decision to outsource the provision of these services at Fiona Stanley Hospital and the committee's role in ensuring value for taxpayers' money. The department has provided that information, which it regards as commercially sensitive and, if disclosed, might compromise the state's negotiation with the private sector in other contexts and in other contractual arrangements. The department, though, acknowledges the committee is taking an appropriately cautious approach to decisions about the disclosure of such information and we appreciate that. I indicated at the outset of the committee, if you wish to question officers around that material, it would be our request that we do so in camera in closed session.

[9.40 am]

The following material falls into this category. One is the report on the tender evaluation of the vertical transportation services tender, provided to the committee in our response dated 20 March 2012. Secondly, the contents of the following reports provided to the committee and our response dated 30 March 2012—that is, the facilities management contractor model financial analysis report, dated 31 May 2010; sorry, we will have to get shorter titles for these. The second one, the Fiona Stanley Hospital facilities management services commercial and financial analysis report, dated July 2011; the contents of the evaluation report, evaluating the responses received to the expressions of interest for the facility management service at Fiona Stanley Hospital, a copy of which we have provided today; and also the contents of the evaluation report, evaluating the requests for submission for the facilities management services at Fiona Stanley—a copy of which is also included.

That is material, through the Chair, we would appreciate, if there are subsequent questions to the material—and the material itself of course being commercial in confidence—we could do so in closed session. That concludes my opening comments.

The CHAIRMAN: Just amongst those documents, you have not included the actual contract with Serco Australia for facilities management.

Mr Salvage: I do not believe we have provided that to the committee.

The CHAIRMAN: Just in terms of Mr Snowball wanting to lay everything on the table, clearly the contract is crucial. Serco Australia has a redacted form on the web. We have seen the full extent of it, but there are a number of parts that are blacked out. The issue is whether or not you can provide us with the full contract so we can see things such as the cost inflator each year. That is blacked out in the Serco contract that is on the web; whether we can have the full contract.

Mr Snowball: If I may take advice on that; I am aware, for example, the contract also includes security measures associated with the service, which we would obviously prefer to maintain confidentiality on that.

The CHAIRMAN: I take it you will get back to us as to whether or not you can provide that to the committee.

If we can move then to the questions that we have for you and which we have already provided you beforehand with a copy of. Could I also just make a very brief statement as to what lies behind these questions and the work we are trying to do. Two of us actually went to the UK, and it was very valuable to meet with a whole range of organisations—health providers, health trusts, academics. The picture was very clear that in the early days of contracting out, the contracts were very poorly handled. As a result, they are paying way above the odds for the services. That was a very clear picture from almost everyone. The contracting arrangements have now improved. I am also aware that when you entered into these contracts, you were able to build on those UK experiences and pick up forms of contract which were better. Nonetheless, this is the biggest contract of this type that the WA government has ever done. It is really a first of this type. We really are trying to get behind the whole process to have confidence that we do actually have a good deal, having seen in the UK how many bad deals there were—and some very, very bad. That is why we are picking behind the detail, to find how it was put together, to give us that level of confidence we hope is there.

Can I ask you first of all to give us some idea of how the procurement evolved with respect to the thinking of the health department when it went to market and then signed with Serco? That question is very broad. I am not talking specifically about the scope. I am looking for how the structure of the contract evolved, because one could form the impression from the information you have given us that you perhaps started thinking that the health department would contract most of these and then bring in a facilities manager to help look after it. Whereas now you have ended up with a situation where you have really contracted the lot to Serco facilities management, who then subcontracts still with a high degree of government oversight. How that aspect developed from start through to final contract—can we get some understanding of that?

Mr Sebbes: If I just go back to the very beginning, if you like—the genesis of this. Prior to December 2007 when we submitted our business case, there was an enormous amount of consultation around the health industry but also amongst other government departments, other major projects in Australia and other major projects around the world—around the whole project not just the facilities management, the construction side and everything else. What emerged out of that was a set of guiding principles for the hospital. One of those guiding principles was around involvement of the private sector, so that was embedded in our thinking very early about we should use the private sector where we get a benefit. That was signed off through the process.

Subsequent to the business case being approved in April 2008—just let me check my dates—we then went through a more detailed exercise under the guidance of our steering committee to look at models for this. We did not go down the path, I think, that you suggested of Health running 40 different contracts and contract bits and pieces of this, although we have done that in some certain specific things, like the radiation oncology contract that was rolled over from Royal Perth, re-tendered, and now rolled into Fiona Stanley—that was done in that model, but that was a clinical service model.

For the support services, we literally went through the history, I think, that you have just described. We went and saw what the history was, what had worked, why had these things failed, and then worked our way forward from that. From a services design, if you like, point of view, from this we picked up mainly the experiences in Australia, because we wanted to have the Australian experience embedded in this, but we certainly picked up also in the UK models of what the scope of these services should be. I know you are not so much interested in the scope, but the model itself evolved from that process. And then we went to experts, if you like, in the field—some of the large accounting firms, some of the specific experts in PPP projects, putting together these support services—and developed a model up from them, that then we went and did our markets sounding

exercise with some thoughts in our head about how it could work. The market sounding exercise teased out whether that was achievable or not in the market—where there was a view it was achievable or not. From there, we developed an expression of interest, went to the market to confirm it was achievable, and then we developed our detailed service specification and went forward from there. But the model was very much developed at that stage.

The CHAIRMAN: Can I just make a comment back, because both you and Mr Snowball commented on how back through 2007 or earlier there was interest in going to market, but you do not comment on the fact that the policy in place, which was on your website until 12 months ago, said government policy was not to contract out cleaning and catering. That was then government policy. So while you are right that there was a look to involving the public sector to a certain extent, your statements might lead people to believe that the view was always to contract out to the maximum, when there were clearly caveats based on that.

Mr Snowball: If I can perhaps clarify, as you are probably aware, at that time we also had an enterprise bargaining agreement with what is now United Voice, which basically had a clause in it that basically required the department not to privatise support services, including in catering.

The CHAIRMAN: It was also in policy statements guiding you. Governments change; policies change—that is all right, but back in those days there was a totally different policy environment to what you have now.

Mr Snowball: We obviously operate on the basis of serving the government of the day, and the policy of the time is what we institute. The direction—and what I wanted to clarify here—was that in terms of our testing the market and subsequent contract with Serco was not a decision we had made independently, nor was it a requirement that we indeed privatise, ultimately. It was about testing the market, not an ideological direction to the department that, “You must privatise these services”. I just want to clarify that.

The CHAIRMAN: Again, starting to work through the questions that we have already given you, can you tell us why Paxon was selected to provide the commercial advice on the project?

Mr Salvage: If we go back to that stage when a procurement decision had been made, Paxon had at that time been working on the preparation of the business case, so they had some familiarity with the Fiona Stanley Hospital project. They had also worked on a comparable exercise with the Joondalup Health Campus and were recognised as good at what they do in terms of the costing of hospital service delivery. So in the context of that initial decision to engage them, it was due to a prior history.

[9.50 am]

I think the scale of the work initially contemplated, being within the capacity to do a direct appointment for that sort of work, and familiarity with the context for the hospital building project weighed heavily in the decision.

The CHAIRMAN: We have looked at major social PPPs around Australia. This is not actually comprehensive, but in terms of what is clearly available publicly, you can see the companies that have provided this sort of advice as commercial and financial advisers to major projects. I would like to know: were any of these companies approached in any form of competitive tendering with Paxon when you engaged them?

Mr Salvage: If we go back to the comment that the director general made at the outset, the prequalification, if you like, for undertaking this work within government is through the panel arrangement. At the point where the decision was made, the scale of the work contemplated was within the financial limits which allowed direct appointment of an adviser to do the work for us. There was one competitive tendering process as we went through the exercise but, as you will appreciate, there were a number of —

The CHAIRMAN: We will come to that later. If we can just start to the initial contracts to Paxon: was at any time any of these companies which are involved here and around Australia in doing this sort of work approached as potentially able to do the work instead of just going to Paxon?

Mr Salvage: Not in the initial contractual setting.

Mr Snowball: And not by the health department, so essentially Treasury and Finance were the ones that basically sought to form a panel contract.

The CHAIRMAN: We understand how the panel works, and we will come to that in a moment. The issue is not how they get on the panel; it is the process by which you then draw people from the panel to do the work.

If we can go to exhibit 2, this is a summary of the contracts awarded to Paxon in terms of the information, which you have already provided to us, and a part of the health evaluation of the facilities management model for Fiona Stanley Hospital and setting that up. There are nine contracts on the screen with a total value of almost \$1.3 million undertaken by Paxon. Can you tell us the name of the panel which was used to appoint Paxon for the four contracts which are highlighted in green?

Mr Sebbes: It is the BMW panel project management services panel 2005.

The CHAIRMAN: Was Paxon engaged to provide project management services?

Mr Sebbes: No; not specifically, no.

The CHAIRMAN: So you went to a project management services panel for work which was not project management?

Mr Sebbes: The panel had a number of aspects to it. Project management services is one of them, but it also had a range of business case and operational aspects that could be covered—if I can just find my notes.

The CHAIRMAN: We can see up here on the screen that the project management services panel of 2005, this panel arrangement provides an efficient mechanism for sourcing suitably qualified project managers for BMW building construction projects. Clearly, what you were seeking, the work to be done by Paxon, did not meet this particular criteria for this panel. So, I would still like to know why you went to this panel to actually choose Paxon in what is the biggest project this state has ever put together.

Mr Salvage: If I can refer to a document, which we are able to table for the committee's benefit, it is "Scope of the Project Management Services Panel". That actual scope of service that is available to be contracted under that panel is in fact very broad; it covers business case development, project definition, front-end planning for projects, as well as project delivery. If I could go to the business case development section of that scope of service, it includes facilities, services, strategic planning, demand for services study, risk analysis, infrastructure needs identification, options for service delivery. It is actually a very broadly scoped panel arrangement. The view was taken at the time that the work that we were engaging Paxon to do fell within the scope of this scope of service.

The CHAIRMAN: But, as we know, with Fiona Stanley, the contract for building had already been let, all the financials around the hard construction side were done. Perhaps we can go to the next slide as well. If we look to the companies that are involved on that project management services panel, you will see that the major financial companies which actually give advice on PPPs—and you were supposed to be operating under PPP guidelines for Infrastructure Australia—they do not appear there. That company is very much about the hard build side of things. You were not involved in the hard build when you were contracting Paxon to provide the financial advice on facilities management. To me it just does not stack up.

Mr Snowball: Obviously, in terms of the response to that is essentially saying whilst the project management service could be thought of as being the building side of the contract, this actually allows a broader set of services to be provided under that definition, which Paxon and this broader group that we are talking about now actually have expertise in that area. So, it is not like Paxon was selected at random; they clearly had a series of expertise around PPPs relevant in Western Australia and relevant to the project that we were seeking to have provided. So, it was not like we picked a project facility provider and said, "Give us some advice on a PPP"; this was a company that, as I said, has had that experience. We did not randomly select this company to provide this piece of service.

The CHAIRMAN: There are other panels we will come to in a moment, but this project management services panel is about building. You had already done all the work, letting the contract on building. You are now about a facility management contract and a very large one, so it was really about the financial advice, the risk management, the management of that facility management contract, putting it together. When you picked this panel, of course, as I already pointed out, the companies that work in that space and have expertise—your KPMG, your Pricewaterhouse, your Deloitte, your Macquarie—they are not on there. So, one could form the view that this panel was used because you did not want competition.

Mr Snowball: Obviously, we reject that. I mean, very clearly the process that we have gone through—in my view, we have gone through the process and made sure that we were compliant with that process. The service definition of the project management service incorporates the work that we have asked and required Paxon to provide. So, the notion that it is only related to building components of our contract is not correct. In terms of the scope—and we are happy to table this paper which goes to the scope—that includes things like looking at the way in which the services ultimately will operate within that building, which obviously then has implications on the detailed service specifications associated with that building, and you need to include that as part of, and immediately subsequent to, any construction contract. So, you are making sure that before you finalise those contracts, you absolutely understand how services are going to operate within the fabric of that building, which is why you have a broader scope on this sort of project management service panel.

The CHAIRMAN: Let us turn to the other panel you could have used, which is the audit services and financial advice panel. This panel, as you can see there, was about risk assessment reviews. These reviews examine the risk management systems and strategies including transferring the risk to another party, avoiding the risk, reducing the negative effect of the risk, and the discussion of accepting some or all of the consequences of a particular risk. Procurement and tendering advice: this includes advice assessment of procurement options—for example, detailed analysis of market capability, whether a project should be procured by means of design and construct, alliance or public–private partnership, including the development of selection project evaluation criteria. It would seem to me that that panel would actually be more suitable to letting a major facilities management contract. I think Paxon is on the list for that, so did the Paxon contract and contracts that you let require them to assess procurement options for the project?

Mr Sebbes: Can I just comment on that? My recollection was that that panel was not in place at the time we first engaged Paxon.

The CHAIRMAN: It was.

Mr Sebbes: It was, was it?

The CHAIRMAN: It was in place.

Mr Sebbes: I stand corrected. From a Health point of view, we were a client to BMW as part of this process. The way we used the panels was we would approach BMW, ask them that we want some specific work required to be done, they would point us to a panel, and occasionally they would

advise us that some of the people on that panel already had too much work on and would not be capable of doing the work and then from there we would go and run the process that we run.

[10.00 am]

So initially that was BMW, when the Office of Strategic Projects commenced, which was after this point. In time they developed their own suite of panels, which had the PPP panel associated with it. We then evolved to that panel for the use of this work and we are currently using that panel for other work.

The CHAIRMAN: Can we go to P6 please? As you can see, this is the panel available under that audit services financial advice, and down the bottom, Paxon is there. You could have gone to that panel and asked Paxon to give you a price, but you could have also gone to the major companies that have done this work here and around Australia.

Mr Sebbes: When we approached BMW for this work, BMW directed us to the other panel to get the work done.

The CHAIRMAN: So who do we need to call in from BMW? Who are the officers responsible who can come and answer the questions?

Mr Sebbes: I can get you the names; I do not have them with me. I could guess them, but they could be wrong.

The CHAIRMAN: If you would, please.

If we could just go back one, if you look to your contract with Paxon, the scope of work was —

- Conduct an assessment of the procurement models proposed.
- Based on the scope of the design of the facility/service, determine a baseline cost of the State providing each service contained in the Services matrix.

The ones we have in red are the risk areas. So the more you read of the scope involved with those particular financial panels, they line up with the work you were asking Paxon to do, not the panel you chose them on. Did Health make the decision for Paxon or was it BMW or the finance department?

Mr Snowball: BMW give us the direction in terms of the appropriate panel to do the scope of work we are after, but the subsequent selection from that panel is a decision that we make.

Mr Sebbes: It is Health. The BMW panel operated a bit differently from others inasmuch as BMW still controlled it, so in more recent panels, Health not only gets access to the panel, but can actually inform the person and the company that they have been accepted, et cetera. Under the BMW one, we were given the panel, we went through the process and we went back to BMW and said, “This is who we want”, and then they would inform them.

Mr Snowball: But even with that arrangement, BMW at that time would say, “Look, one or two companies have lots of work on at the moment, but these other companies do not.” So, in other words, part of that process was while we made the final decision around that, we also had some guidance from BMW at the time about not only which panel to use, but also a sense of what sort of works out there for those companies.

The CHAIRMAN: Mr Snowball, this is the largest contract the state has ever let, to my knowledge, and for you or for the department to make a decision that the KPMGs or Pricewaterhouses of the world are too busy to ask, does not wash.

Mr Snowball: That is not what I said. I said we were guided by BMW in terms of the panel to select, but also by advice around the companies involved in that. So ultimately the decision is Health’s, as I mentioned, but guidance through that process was through BMW. My whole point, and the point of my earlier presentation, was to make clear that in respect to many of these

decisions, they are decisions that ultimately, whilst Health is making decisions, follow government processes that occurred at that time. As Brad has outlined, at that time we were guided by BMW in terms of the appropriate panel.

Ms R. SAFFIOTI: Can I just clarify, BMW recommended Paxon and who else?

Mr Snowball: No, sorry; BMW did not recommend Paxon. The process we went through was that we would go to BMW and say, “This is the scope of work we want done.” BMW would say, “Here is the appropriate panel or companies from which to select”. Often—I am not saying in this case—they would also say, “Two of those companies have heavy-duty work, so they’re not going to be available for two months”, or whatever. So they were not making a decision in that respect, but providing that guidance.

Ms R. SAFFIOTI: So in this instance?

Mr Snowball: I do not know whether that occurred in this instance; what did occur in this instance is that BMW advised us which panel to use for the work that we needed done.

Ms R. SAFFIOTI: Yes, that is the panel. But did they provide any advice on the actual company, on that front?

Mr Sebbes: Using the panel, we then made the decision about who to use.

Ms R. SAFFIOTI: It was entirely Health’s decision?

Mr Sebbes: As to who we used use off that panel, yes.

Mr Snowball: But not which panel.

Ms R. SAFFIOTI: I understand that.

The CHAIRMAN: We certainly seek your assistance as to who you say was responsible for advising of that panel, because it looks totally wrong to me, so we would like some justification of that. I just mention that the information we received from other government departments is that with the QEII car park, something you people are involved in, and also with the Midland campus, you went to the major companies—PWC in one case and another major company in the other—from the financial services panel. So people in government knew, which I think anyone looking at these would see, that the correct panel was the audit and financial services panel, not the building panel. So we will need to find out why you worked off a panel that did not give you any opportunity to go to the major international companies, which do all this work generally, and did the work—at almost the same time—for other government agencies. I am not saying that Paxon would not have won it, but you did not even ask those major companies to put in an offer, because you picked the panel that they were not on. I do not feel that we have had answers that are satisfactory there, but we will seek to get that from other places as well.

Can we go to the next one, which is P7? We have already seen this, but we have highlighted three contracts to Paxon, all of which are on the same day and are all for \$136 400. They were all off that project management services panel. The panel allows for the direct appointment of companies if the estimated value of the contract is below \$150 000; is that correct?

Mr Sebbes: Yes.

The CHAIRMAN: So the three contracts were let to Paxon on the same day and were each for the same amount. Did the department deliberately split the contracts so as to avoid the necessity of any competitive tendering process?

Mr Sebbes: No; the three contracts were effectively unrelated contracts.

The CHAIRMAN: Unrelated?

Mr Sebbes: If I can just go through them. The first one, the one that ends in “810”, was for work with the managing contractor specifically around commercial advice for the original equipment

manufacturer contractor and was related to the construction side of the contract. The contract ending in “910”, which is the last one there, relates to the cost–benefit analysis for radiation oncology services, which is the thing I mentioned before where we picked up the existing privatised radiation oncology services for Royal Perth, tendered it back into the market and now it is established in Bunbury and Royal Perth and that will evolve to Fiona Stanley. The third one was related to the FM contract.

The CHAIRMAN: Let us look at the first two—that is, the one that ends in “810” and the one that ends in “410”. The project brief for those, if you can spot the differences: 810—I will read downwards—is for the “development of integrated subcontracted services”, whereas 410 was for the “implementation of a facility management services framework”. They are not all that different when all the other words are the same.

Mr Sebbes: The integrated subcontracted services were part of the managing contracted arrangements with subcontractors. Construction —

The CHAIRMAN: But it is all for facilities management at Fiona Stanley Hospital.

Mr Snowball: That is building construction.

Mr Sebbes: That is building construction, so 810 was not a facilities management related contract.

Mr Snowball: It was not a support services contract.

The CHAIRMAN: So what was it for?

Mr Sebbes: Subcontracted services. Specifically, things like lifts and arrangements like that are part of the construction side of the project.

The CHAIRMAN: Which is all in the contract with Serco.

Mr Sebbes: They have—no—Serco has responsibilities for maintaining this and other things going forward, but the managing contractor, Brookfield Multiplex, had to engage subcontractors to provide these services, so they had to go out and get a lift contractor and get the lifts put in, while the Serco component of that was picking up later aspects of that in terms of maintenance contracts.

The CHAIRMAN: In the final facilities management contract, which you have done with Serco, are the lifts in that contract?

Mr Sebbes: The maintenance of the lifts is an obligation on Serco, yes.

The CHAIRMAN: So the work here specifically led to the formation of that contract?

Mr Sebbes: It could have been used to inform that contract, but it was not the purpose of it. Because we did not have the facilities manager at that time, we needed to go through those contracts on the construction, which we would have needed to have done in any event in regardless of whether or not we had a facilities manager to make sure we had sufficient commercial leverage, if you like, going forward on those contracts.

[10.10 am]

The CHAIRMAN: But they still both relate to what ended up in the one contract with Serco Australia for facilities management.

Mr Sebbes: At the time we did that, we were not sure whether that was going to go that way.

The CHAIRMAN: You were still leaving options open?

Mr Sebbes: Yes.

The CHAIRMAN: Can we go to the next part of the same one? If we look to the project briefs, again there are just so many similarities between the two. The ones in red are identical; the ones where they change slightly still cover, often, the same area.

Perhaps, finally, we can go to the actual deliverables of the two contracts. The first on 810 is “Cost-Benefit analysis of the various services being considered”, and on 410 it is, “Cost-Benefit analysis of the various options being considered”—not much difference. Then you put the word “delivery” in the next one; “Advice on the structure of the service models”, and, “Advice on the structure of the service delivery models”.

Mr Snowball: In terms of the explanation of the service delivery, particularly around the oncology service, because although it sounds like a —

The CHAIRMAN: No, I am not dealing with oncology now, we are dealing with these two particular ones; oncology is a different number. We are dealing with these two specific ones here that got you under the \$150 000 limit so that you did not have to seek expressions of interest from any other company; you could just roll the work onto Paxon and not go to any competitive tender to make sure you got the best deal for the taxpayers of this state. That is my concern.

Mr Sebbes: Perhaps a different way of explaining this is that the 810 work was relating contractually and legally to the Brookfield Multiplex work and their requirements under their contracts; the 410 work was relating to what was potentially the facilities management contract. We saw those as quite different.

Mr Snowball: So we did not see it as either—we certainly did not see it as, “This is a package of contracts that we will disaggregate and go through a process that does not lead to wider procurement”. These were independent pieces of work, particularly the one around the subcontracting for Brookfield; it was essentially going—that is important, because we did not have a facility management process in place at that time. We needed to employ a contractor to provide that service for us; it was around the capital component of the construction of that project. The independent and separate piece of work was then around the FM integration services, which is about testing the market, and do we look at providing these services in a different way. One cannot be packaged up with the other and does not ultimately lead to the other as well, even though the lifts, for example, may, within a broader integrated set of service agreement, include lift maintenance. It did not include —

The CHAIRMAN: Why is lift maintenance not in there? Why does it not talk about hard facility management or soft? That is not in there.

Mr Snowball: In terms of the original construction subcontract?

The CHAIRMAN: In terms of what we have put up there, in terms of the deliverables and the scope of the projects, that is not mentioned.

Mr Snowball: Can I suggest that, if we have not already done so, we provide the full scope associated with both of those, because it is actually very sizeable?

The CHAIRMAN: Okay, because we have obviously summarised it.

Mr Snowball: That is right.

The CHAIRMAN: Anyway, I will come back to the point a different way: in November 2009, cabinet approved the contracting-out model. You had to work out to what extent that contracting would go—it might be a minimum of services; it might be the lot, which you ended up with. You already had cabinet decision, and it had approved a contracting-out model, so you were now engaging Paxon to look at that. Although you can talk about how you will break it up into this and into that, it was all part of the same work at Fiona Stanley Hospital to look at what part of facility management would be contracted out. I think you are splitting hairs to try to say, “One covered lifts and the other one didn’t”, to, fortuitously, get it under the \$150 000 limit so that you did not actually have to ask anyone else to put in a price and you could just give all the work to Paxon.

Mr Salvage: We did, in our previous response, provide information on the deliverables under the contract—I think it is 410—relating to the evaluation of subcontracted services as part of the

Brookfield contract. If I can refer the committee to the material provided, there is information about a performance regime that would apply in that instance, and an example of an electrical services subcontract. I think if you look at the specifics of the deliverables that were produced under both contracts, they are quite distinct and different.

Mr A. KRSTICEVIC: I have a question to get some clarity around P7B. We talked about the similarities, and one thing I was interested in—because I have seen a lot of contracts in my time; I am wondering whether you have seen the same—was that with a lot of these scopes of services, they would be in most, if not all, contracts you do, and then you would just add the extra bits. Say, for example, “develop a costs benefit model”; I would suggest that would be in pretty much every single sort of scope. It does not matter what you do and whatever contract you come up with, that would be something you would need to do. So, when I look at a lot of the things in here, I would expect them to be in every single document and then extras would be added specific to the contract you are doing. Is that true or is that off the mark, or are the new scopes always re-evaluated?

Mr Salvage: I think one of issues we are confronting here is the similarity in the language used in different contracting processes, and that is because some of the processes followed through the contracts are quite similar and the deliverables are similar. It does not mean that the intent of having one package of services dealt with under one contract versus another is undermined in any way. These were distinct and separate pieces of work.

Mr Snowball: I think the point is that there are quite a few common principles that run through those contractual arrangements, which you would expect. It is when you get to the detail of what are the deliverables from this company in quite detailed terms that you get to the real intent behind the contract itself. That is why I say there is quite a distinction between those two contracts once you get into the detailed deliverables from these two contracts.

Mr A. KRSTICEVIC: Ultimately, I suppose you would be concerned if you did not have some of those similarities running through all contracts and through all processes?

Mr Snowball: Yes.

Mr A. KRSTICEVIC: Thank you.

The CHAIRMAN: The QEII car park, I have mentioned, and the Eastern Goldfields prison and Midland Health Campus, for all those projects the same type of work was let up front for a single large body of work, and there was a request for expressions of interest—a tendering-type process—even though it was off the panel, and in each case a large national or international company got the work. Paxon was able to bid; I will not go into the details. So why, for a project such as Fiona Stanley non-clinical services facility management—the biggest contract ever to be let in this state, which you did not actually know at the start, but you knew it was very big—did you not go to market, have some competitive tensions, and then decide whether Paxon was the best company to do this work?

Mr Snowball: Throughout this process, and from the very beginning, the brief we had was, first of all, to test the market, as Brad has outlined —

The CHAIRMAN: No, Mr Snowball, it was not in April 2010, because in November 2009 cabinet had approved a contracting-out model and asked you to go to the market for expressions of interest.

Mr Snowball: And test it; that is correct, yes. So, our testing of that model—I am going back to when these original contracts —

The CHAIRMAN: But you needed financial advice as to how you were going to run this whole process.

Mr Snowball: That is right.

The CHAIRMAN: The gun had been fired by cabinet, you had a major project on your hands, and yet you did not go to market to find who was the best company to help you with financial advice and negotiation of a contract or contracts to reach the outcome that cabinet had told you to produce.

Mr Snowball: The direction we had from government at that time, whilst contracting was then an option for us—which, as you outlined before, was not an option for us—then led us to a point where we said, “We need to test the market as to whether in fact we contract out the entire service.”

The CHAIRMAN: Yes, but you did not test the market when it came to the key financial services you required to make this a success.

Mr Snowball: Well, I mean, all I can go through is the process that we arrived at to procure Paxon for that advice. In my view, at that time we went through the procurement process that the government had established for that purpose. Ultimately Paxon, in terms of their bona fides to do this work, I think with basically the experience that they have and so on that we went through, we were happy to proceed with Paxon as a company capable of doing that piece of work at that time, bearing in mind we did not have a clear picture of the scope.

[10.20 am]

Had we said, “At the end of this process, we will contract out this entire set of services”, we would have done just that—we would have tested the market entirely to do from A to Z. In this process, it was step at a time. We need to assess whether in fact there was enough of this work that could be pulled together as a package; how do we go to the market; how do we test them; do we do it in bits; do we do it as a package? That is the sort of information we needed. You only make the next decision to proceed after you have done that initial piece of work.

The CHAIRMAN: But the initial piece of work is being done by a company that you have contracted to, in this case Paxon, and when it came to appointing them, you did not have any competitive tension at all.

Mr Snowball: As I explained earlier, we had gone through a process at the time it was established, which effectively had us directed to a particular panel to provide that set of work. That is where we arrived at.

The CHAIRMAN: But in the early stages, you did not ask other companies on that panel to put in an offer. It was just handed on a plate to Paxon. There was no competitive tension at all. We were told that earlier.

Mr Snowball: I can only reiterate that the advice that we had in terms of the appropriate companies to provide this piece of work came from BMW, saying that is the panel from which you can appropriately select. They go through a process themselves to get people ultimately on that panel, as you have rightly pointed out. The issue for us is we are guided through that process in terms of what is the appropriate company to provide that advice. Ultimately, though, in terms of a selection of a company from that panel contract, we were satisfied that Paxon had the required experience and background and skills to do that piece of work that we had sought to have delivered for us.

The CHAIRMAN: If we can go back to the list of contracts to Paxon, and you have now highlighted the bottom one. In this case, I understand there was a competitive process; and given that the estimated amount was over \$150 000, you would have been required to do that by the buying guidelines. So why was a competitive process used in this instance?

Mr Sebbes: Exactly as you have just said—the buying guidelines required us to run that process.

The CHAIRMAN: So, again, you are contracting the work off a panel. You therefore approach two, three, four or five companies asking them to make an offer that they are resourced to do the work and what their price will be, because their price can go under the price in the panel. Did you ask any of the major companies—as you have done with QEII, Eastern Goldfields prison and

Midland health campus—such as KPMG and Deloitte? Were any of those asked to put in an offer against Paxon for this work?

Mr Sebbes: My recollection is not.

The CHAIRMAN: Is it not true that you picked companies that were very small and did not necessarily have a lot of experience in this area against Paxon for this project? One of them I understand is a single operator—one person out of an office—who put in a bid way below that, and obviously not suitable for doing the work?

Mr Sebbes: I cannot recall the detail of the process there, but my recollection was we were guided to a number of places and that is what we did.

The CHAIRMAN: You are working off the panel, but you are required, because you estimate the work will be well over \$150 000, to seek expressions of interest from a number of companies. The point I am making to you is it looked like it was not any serious competition. You did not actually go to companies—say the big accounting firms that do this work quite regularly all around Australia—because none of them were even asked to put in an offer; they were excluded.

Mr Snowball: In terms of responding to that, while we have the companies that we did ask the question of, we do not have the details associated with the decision making that led to the selection of those companies in this process, and we would be happy to provide that information.

The CHAIRMAN: Okay. If we can move on—I think you have the same numbering—to question 18. Paxon signed its first contract with Health on 16 July 2009 and handed in its work on 21 July. How were they able to complete this work so quickly? I understand this was fairly integral to the work that went to cabinet that led to that decision of cabinet in November 2009.

Mr Salvage: This relates to the procurement process, that once you have selected a contractor from the panel to undertake a piece of work, the contracting process is undertaken by Building Management and Works. Paxon were actually advised on 1 July by email from a member of the Fiona Stanley hospital team that they had been selected to do that work. So that was three weeks before they submitted their report.

The CHAIRMAN: But the contract was not signed until 16 July?

Mr Salvage: That is correct.

The CHAIRMAN: And they handed in the work on 21 July?

Mr Salvage: Yes.

The CHAIRMAN: Did that work include creating the reference project?

Mr Salvage: That was, I understand, within the scope of that initial piece of work. It was to do the preliminary financial analysis work.

The CHAIRMAN: But the reference project was crucial to determining value for money. The reference project, as I understand it, was to look at: if all those services at Fiona Stanley hospital—all those non-clinical services—were provided out of Royal Perth Hospital or Sir Charles Gairdner in a modern setting, with up-to-date equipment, what would it cost? Is that a fair description of the reference project?

Mr Sebbes: Broadly that is correct, yes.

The CHAIRMAN: So how could they do that in a week or two or three, or had you done it internally and you simply gave it to them and they made an assessment of it?

Mr Sebbes: I cannot recollect the exact time frame it took them to do that, but they certainly were advised at that date and they did the work in those few weeks after that.

The CHAIRMAN: The point I am getting at is did they actually develop the reference project, or are we simply saying they assessed a reference project that you handed them in that time?

Mr Sebbes: Earlier on in other work—they had done some work on this in terms of the business case development as a subcontractor to another person, and they already had some information on this as part of the business case development as well. They then built on that and created this project.

The CHAIRMAN: In terms of full and honest disclosure, we have put up there all the contracts you have told us about that Paxon is involved in. Now you seem to be suggesting that there was an earlier contract. I will come back to that in a moment. Just looking at that work that was done between when they were contracted on 16 July, and 21 July, did they provide a preliminary public sector comparator on 21 July?

Mr Sebbes: They did a financial analysis on 21 July, yes.

The CHAIRMAN: So in that time they were able to assess the full cost of what turns into 28 or 30 non-clinical services and give you a figure as to what it would cost?

Mr Sebbes: Yes.

The CHAIRMAN: Perhaps we can flick through that whole list of all the contracts, which is P8. So are you telling us they had a contract relating to Fiona Stanley before that contract of 16 July, BMW2559209?

Mr Sebbes: There was no earlier contract with Paxon. We had an earlier contract with Cary Consulting, which had become the Appian Group, and part of their requirement was to develop a business case for us. They subcontracted some of that work to Paxon to do.

The CHAIRMAN: So Paxon was working on Fiona Stanley under another contract prior to 16 July?

Mr Sebbes: As a subcontractor, yes.

The CHAIRMAN: Any idea what they got paid for that?

Mr Sebbes: No.

Ms R. SAFFIOTI: What were they doing?

Mr Sebbes: In the business case development, where Cary Consulting were acting at the time, they did a lot of modelling around the costs of the hospital. So the business case had some recurrent cost modelling in it. It was to match up the whole-of-health cost modelling, and Paxon did that for us.

Ms R. SAFFIOTI: So the cost of running the hospital?

Mr Sebbes: Yes.

Ms R. SAFFIOTI: When was that?

Mr Sebbes: That was prior to November 2007.

The CHAIRMAN: We are not talking about that. We are talking about earlier than that. With the July contract, what causes us concern on the numbers that we have got—you have given a partial explanation, and I thank you—is that this was really the crucial work that led cabinet to make a decision in November, and there was a bit of follow-on work, but you say they delivered it on 21 July, and it contained creating a reference project and providing a preliminary public sector comparator. In terms of the further advice that you have given us, you are saying that Paxon was actually working on that earlier—even though you only contracted them on 16 July, they already had a foot in the door and they had done something. I think Ms Saffioti is trying to get some idea of what was that earlier work through a subcontract.

Mr Sebbes: That earlier work was approximately 18 months before that time, when we were doing the development work on the business case, and initially the information from that went to the EERC in November of 2007, and the business case was completed in December 2007 and approved

in April 2008. So to inform that process, they did some work under subcontract—as a subcontractor, not as the principal contractor.

[10.30 am]

The CHAIRMAN: When would they have started the work on the reference project?

Mr Sebbes: When they got advice from us in June or July.

Mr Salvage: 1 July.

The CHAIRMAN: 1 July, 2009?

Mr Snowball: Correct.

The CHAIRMAN: So we have clarified that the reference project was done within two weeks.

Mr Salvage: Three.

The CHAIRMAN: Three weeks, sorry.

Ms R. SAFFIOTI: It seems an incredibly short time frame—incredibly short. What was the information exchange between Health and Paxon during that time? Was there significant information flow from Health to Paxon in developing the public sector comparator?

Mr Sebbes: Paxon was actively involved in our major hospitals by talking to the business managers and the like in those hospitals and getting and reviewing those cost profiles and interviewing people. The preliminary financial analysis was, essentially, to get a scale; it was not to be a detailed, accurate financial analysis. That was done as part of the public sector comparator. The detailed work was done on that. The preliminary financial analysis was to get a sense of the scale—are we talking about \$1 billion or \$2 billion worth of work?—so we had some sense of the scale of the project, and that was used in the formal procurement planning process. The detailed work was done as part of the public sector comparator.

Mr Snowball: In that sense, Health's resources were used to support the work that needed to be undertaken to arrive at that position, which is basically getting a sense from those major hospitals of what their cost profile is. You transfer that to a brand-new Fiona Stanley—in what range would our cost profile be for those support services in the new hospital? That is why that earlier work that is essentially Paxon working with Appian in terms of their initial work around the cost profile for Fiona Stanley—that is, the total service and the recurrent costs and so on—would already give you a sense of what is the cost of running Fiona Stanley. Then you do the subsequent work about what is the cost of running those other major facilities. So it would not take you all that long to work through the next steps, which is, if you were to go to the market, what would be the scope of work that we would put to the market?

Ms R. SAFFIOTI: Is that why Paxon got the work, because it had this information from the previous work it had undertaken? Is that why Paxon was chosen from the list because — Mr Snowball, you just said that is why they were able to do it so quickly, because they had this previous experience. Is that some of the thinking in awarding the work to this group?

Mr Snowball: One of the issues, when you go to the contracting of companies like this, is you look at what they are able to deliver for you on the project. As I said at the very outset, had we known the scope of the work that was involved from start to finish, knowing that there were forks in the road along the way, you would say, “No, we're not going to proceed; that's enough”, and you would stop at that point. That is why the subsequent contracting — Like any contracting, while that new piece of work is available to all companies, if somebody has been working with you in that particular project, they have a competitive advantage because they already know your business and so on. In terms of the selection process, you would have to evaluate each on its merits at the time that it occurs, but the point I am making is that there is a competitive advantage for someone who already has been involved in that work from the outset.

Mr A. KRSTICEVIC: Is it possible to get more details around that 2007 contract and how much Appian was paid, what scope of work they were asked to do in 2007, and then obviously how that feeds into the next level of contracts?

Mr Snowball: What I wish to reassure you is that my involvement all through this process has been that we have absolutely stuck to the government procurement processes. At no point have we departed from that—for good reason and for the reasons that you pointed out, which is to ensure that we get value for money. We are using all the devices of government to allow us to make the right procurement decision in this process.

Mr C.J. TALLENTIRE: The 16 July contract was estimated to be \$20 000 but the actual amount was \$84 000. Is that within the standard procedure to just accept that you can have a price hike like that?

Mr Sebbes: There is a process we go through for that. We go back to, in that case it was—I cannot remember which one it was —

Mr Snowball: It was BMW.

Mr Sebbes: I know which contract it is; I cannot remember which process it is because the different panels had different processes under the buying rule. There is a process under the buying rules where you go back if you are likely to run over and you either get approval to continue or you stop and go back to the market.

The CHAIRMAN: There is one other anomaly on this issue that we are trying to get at, which is where the work fitted into what dates. We have asked you many questions, and we appreciate your assistance in answering them. We asked you a question relating to the contract on 9 April 2010. Next exhibit, please. You provided us with an answer, which we have only taken the header off, saying that it was 9 April, but the letter from Paxon was dated 22 January. Again, it is confusing how work could have been done with Paxon in January when the contract was let to them in April.

Mr Salvage: It is the same issue that I raised previously about the timing of notifying Paxon that we wished them to undertake that package of work relative to the contracting process being finalised with them. Consistent with the buying rules applying to that contract panel, we selected Paxon to do further work in this space and notified them in December 2009 of our wish for them to do that, and then it was only subsequent to that that the contract was finalised through BMW.

The CHAIRMAN: So you had them doing work from December on and the contract to do that work was then actually awarded in April the following year?

Mr Salvage: That is correct.

The CHAIRMAN: Is that the way you normally do business?

Mr Salvage: The contract procurement process is through the BMW organisation; it is not a Department of Health process. I would certainly prefer to do it in sequence, but on this occasion, in order to get the work done, there was a notification to Paxon that they were asked to do the work with the subsequent follow-up of the awarded contract.

The CHAIRMAN: How often does Health have people out there doing work that they expect to be paid for and you have not signed a contract with them?

Mr Salvage: I cannot answer that question.

The CHAIRMAN: It gives me doubt to have confidence in the whole process. We have a \$4.3 billion contract. Is that treated in the same way?

Mr Snowball: This was a contract for an amount significantly less than that. We had advised the contractor that they had been successful in the arrangement. BMW's job was to subsequently formally notify the company of that engagement and the terms and conditions of that engagement. These companies operate under those pretty standard terms of engagement in terms of work through

this process. What this is saying is that we advised Paxon. They could have been well within their rights to say, “We don’t have a contract and can’t start until we have one”. They commenced the work and we had not stopped them from doing that. I agree with Mr Sebbes that our absolute preference is that you align those two things—that companies document the work with a clear guarantee that they will be paid for that work.

The CHAIRMAN: I have doubts about whether that fits in with the way in which you are supposed to do business, and it certainly looks like the relationship with Paxon is just a bit too cosy. You did not have a contract signed when they were undertaking work that they were to get paid for.

I will try to finalise this section with a further question, which goes back over what we have been talking about. How can the Department of Health be sure that it received the best advice possible on the most expensive contract ever signed by the Western Australian government if its commercial advisers—the people responsible for establishing the value for money of the proposed outsourcing to Serco—were never evaluated against leading service providers in this field?

Mr Salvage: As we indicated in relation to the last contract awarded to Paxon, there was a competitive tendering process undertaken, relying on the Treasury panel, so that element of the work was competitively tendered for.

The CHAIRMAN: But not against any of the major companies that provide these services. It was not competitively tendered against them.

Mr Salvage: I understand that.

The CHAIRMAN: Perhaps we can move on, because we have taken a fair bit of time. The next question goes to the public sector comparator. Paxon established that the contract with Serco represented an 18 per cent saving compared with the provision of the same services via traditional in-house procurement by the Department of Health. Is that correct?

Mr Sebbes: Yes. There is a breakdown of that, if you are interested. There is a cash–cost component of 5.2 per cent; a competitive neutrality, which is effectively payroll tax; and the risk factor.

The CHAIRMAN: I think we already have those figures and we will come back to those.

If we could look at another exhibit. We have pulled together the savings achieved in other recent hospital PPP projects around Australia. Most of those involve the actual build as well as services, or parts of services, so I point out that it is not apples with apples exactly.

[10.40 am]

But you can see there that the level of savings is generally fairly meagre. Can we actually try to work out how we can get 18 per cent when generally you are talking about one to seven per cent as the savings? Also, the advice I have received from people in this field is that you have more savings on the build than you do on the facilities management side. I disagree with that, but people in the field suggested that to me. Does this 18 per cent saving indicate that Western Australia’s hospital operations are particularly inefficient compared with similar hospital operations in other parts of the country that you can get such a huge difference or saving through Serco of 18 per cent?

Mr Snowball: Obviously, it is difficult from these numbers to make that response because I do not know what sits behind these numbers—whether we are talking about the capital component, the capital and recurrent —

The CHAIRMAN: Some of these have capital in them as well.

Mr Snowball: — risk sharing. I would be very happy to analyse these in more detail and come back to you with a response to that question.

The CHAIRMAN: The question is: are there huge inefficiencies in our system that are open to a private player coming in and creating such a huge cost saving?

Mr Snowball: I think the judgement call we make is on the evidence we have got before us, which is we have a facility, we know we have got a new hospital coming in, we have tested the market and the market is telling us that purely on a cash approach—forgetting all the risk sharing and so on—the support services can be done at five per cent better in terms of value for money. That is value for money and it has comparable quality and safety outcomes as well.

The CHAIRMAN: But when you say you tested the market, you did not test it for the people who gave you these numbers.

Mr Snowball: I am sorry.

The CHAIRMAN: You did not test the market for Serco. Serco is the basis for you claiming 18 per cent cheaper.

Mr Snowball: No; you asked me whether in fact there was inefficiency in our support services, and my response to that is: here is an example where we have tested the market against a service that we have costed the public sector would provide, and Serco has been able to demonstrate a five per cent cash better result. In answer to the question, I would turn it slightly differently because, in terms of efficiencies, there are efficiencies to be gained in our system; I think that is true. Some of those are structural efficiencies, so we do have old facilities and those sorts of things that are not —

The CHAIRMAN: But that should be factored into your public sector comparator; so that is not part of your savings.

Mr Snowball: And it is. In terms of the comparisons, as I said, without knowing the detail behind each of these, I would be happy to come back to you, once I have got that detail from each of these, to give you that answer. But I do know, in terms of your point earlier that more return has come from the construction element, the construction element is about seven per cent of the total value of the life of the facility and its services. So, in terms of the total value, you are looking at around about seven per cent for that.

The CHAIRMAN: Yes, but we are talking about a 20-year contract, not the whole life of the hospital.

Mr Snowball: That is right, which is where you get the value, because if you are looking at five per cent in terms of running a facility of this size with this scope and with this volume of taxpayers' money involved, five per cent is actually a very big dollar quantum.

The CHAIRMAN: If we could turn now to the issue of risk, which were in some of the figures that can be mentioned. We had the opportunity to speak with Matthew Custance, a KPMG partner in London specialising in corporate finance and doing these sorts of deals. He reported to us that in most typical PPP projects, construction risk is the most significant risk encountered. The FM contract signed with Serco did not carry any construction risk, yet you indicated that \$299.7 million of risk has been transferred to the private sector. This would appear to be a far greater level of risk transferred than in other health PPPs in Australia. Can we get some understanding in terms of the principles and the amounts as to how this level of risk transfer was achieved?

Mr Sebbes: We have provided in the documents a breakdown of the itemised risk.

The CHAIRMAN: This is the one just tabled?

Mr Snowball: This is the commercial-in-confidence.

Mr Sebbes: We would want to talk in confidence if you want to go through that in detail. That breaks it down into 40 or 50 elements of risk, some of which we keep, some of which we did not transfer and some of which we did. You can go through that and see line by line where the risk transfers occurred.

The CHAIRMAN: Perhaps we will have that discussion at another time. We will leave that to a time when we can do that in closed session.

For the facilities management contract, can you tell us the role of the service specifications in allowing shortlisted bidders to provide detailed bids to the Department of Health? How important are those service specifications in actually getting your bids in from prospective contracts?

Mr Sebbes: The service specifications are the basis on which the bids are provided to us. It is like the primary document of what we, as hospital operators, want delivered to the hospital. They are output–outcome based service specifications, so they do not tell the private provider how to deliver services; it says these are the outcomes we need in the hospital. They are a key element of this. There are some commercial and other legal aspects to it, but these are the operational aspects of the way we want the hospital to operate and what we expect to be provided under these things. The bids from the proponents are against those service specifications.

The CHAIRMAN: What work could a potential bidder do without the service specifications?

Mr Sebbes: They would not be able to complete their submissions without seeing all of the service specifications.

The CHAIRMAN: When were the requests for submissions released to the three shortlisted respondents?

Mr Sebbes: I think it was on 19 February.

The CHAIRMAN: That was 19 February 2010?

Mr Sebbes: Yes. With that we attached 15 of the service specifications, which are in the list of documents you have got there. I have another list here which was also issued and which was to come out in the next few weeks after that. The final one was the optional ICT component.

The CHAIRMAN: Just to make sure I am clear on that, when you actually went to the market with the shortlisted respondents, you gave them only some of the service specifications. Fifteen out of how many?

Mr Sebbes: Fifteen out of, at that stage, 28.

The CHAIRMAN: So you ended up with 28.

Mr Sebbes: Twenty-nine with the optional ICT.

The CHAIRMAN: When did the final three bidders have the full list of service specifications on which they had to cost?

Mr Sebbes: The final one was the optional ICT, which was issued on 23 March 2010.

Mr Snowball: But there were two tranches in terms of the service specifications, so one was in February.

Mr Sebbes: On 19 February, the RFS went out with the 15 specifications. Then progressively over the next three weeks, we issued the rest of these and then on 23 March we issued the optional ICT one.

The CHAIRMAN: You were running this project under Infrastructure Australia guidelines for a PPP?

Mr Sebbes: We were running the public sector comparator analysis component under those guidelines, yes.

The CHAIRMAN: But not the contract?

Mr Sebbes: No; the contract was only under state supply guidelines.

The CHAIRMAN: So given the fact that Infrastructure Australia requires the service specifications to be provided when you actually go to respondents on the expression of interest, you did not feel you had to give them all those service specifications at the start of the process?

Mr Sebbes: We had sought legal advice on this about what we needed to put out in the process, and we had State Solicitor's to support the issue on this basis.

The CHAIRMAN: Did you provide those three shortlisted respondents with a copy of your public sector comparator?

Mr Sebbes: No.

The CHAIRMAN: Again, Infrastructure Australia has that as one of their guidelines.

Mr Sebbes: To provide the public sector comparator details?

The CHAIRMAN: Yes.

Mr Sebbes: That is not my understanding.

The CHAIRMAN: Perhaps we could have a further discussion at another time as to why there seems to be a difference there. I am sure you will have a good reason for it, but it is my understanding that there should be a public sector comparator provided to those shortlisted.

Mr Sebbes: My understanding is there needs to be a public sector comparator completed and available to the assessing panels prior to the closing of submissions, but not given to proponents. I am not aware of any project where they have been given that detail.

The CHAIRMAN: And you had that available then?

Mr Sebbes: As we spoke about before, that was completed before the closing of submissions in June 2010.

Mr Snowball: If you gave that to the providers, without actually seeing the PPP guidelines, you would basically be foreshadowing to the market what the price to beat is. In terms of our processes, we would make sure that we had clearly got that information completed at the time those expressions of interest went out, but I would have thought that is our benchmark to ensure that what is coming forward actually represents value for money for the taxpayer without disclosing it at that point.

The CHAIRMAN: At this stage, you had three shortlisted respondents. One withdrew. What date did that respondent withdraw?

Mr Sebbes: We have also included a copy of their withdrawal letter as attached to the documents that we tabled. It explains why they withdrew.

[10.50 am]

It is in here somewhere—2 March.

The CHAIRMAN: It was 2 March?

Mr Sebbes: Yes.

The CHAIRMAN: That was before they even got the final specifications.

Mr Sebbes: Yes, and in their letter they explain that once they saw the—because we still had a broad scope of services. Whilst we did not have the detailed specifications, we had the list of services to be included, and they took a view that their business profile was unable to deliver against what we had requested.

The CHAIRMAN: So that was the reason they gave for withdrawing.

Mr Sebbes: Yes. I cannot remember the exact words, but I think it says—indicating their service delivery model for the contract was not the best fit for Fiona Stanley Hospital.

The CHAIRMAN: During an earlier hearing with the department, the committee was told that the ICT components were an optional service when the department went to market.

Mr Sebbes: Yes.

The CHAIRMAN: In the April 2010 service specifications, there does not appear to be any ICT specification, so we would like to know how the short-listed bidders responded to the option of ICT service components, and when did they actually go in?

Mr Sebbes: I think the April 2010 comment is incorrect. We actually issued the ICT service specification as an addendum on 23 March 2010.

The CHAIRMAN: In that second round of service specifications?

Mr Sebbes: Yes.

The CHAIRMAN: Just to clarify this—I think you told us before—when you actually put out the service specifications, was it on the basis that you wanted them all costed, or could respondents come in with a different collection of which service specifications they were willing to take on?

Mr Sebbes: We asked them to respond to those. We were not sure at that time whether anybody would respond to every one of them and provide all the services. So they either needed to respond, give us the prices for all of the ones that they did want to run, and then we would analyse that against the ones that they may not want to run or did not have the expertise. We were not exactly sure about some of the particular marginal services there, so it was open for some to tender or not to tender, and they take the risk on that in terms of what their competitors might put in against.

The CHAIRMAN: So you are then left with two respondents —

Mr Sebbes: Yes.

The CHAIRMAN: — and they had to reply, I think, by 31 May 2010; is that correct?

Mr Sebbes: The closing date?

The CHAIRMAN: Yes.

Mr Sebbes: The closing date for submissions was 31 May 2010.

The CHAIRMAN: So of those two respondents, did they both cover the same field in terms of the various services that they were contracting for, or did you have a bit of a mix?

Mr Sebbes: No, they both covered the major ones. The only ones that were not covered were some quite minor services, in terms of cost at least, which was child care and fleet management—I think they were the only two that were not covered—both of them submitted against the ICT—optional ICT, for example, as a major thing.

The CHAIRMAN: The service specifications have now been finalised, obviously, with the contract entered into with Serco. Is it possible to make those service specifications that are actually in the contract publicly available?

Mr Snowball: Yes, with the exception, as I mentioned earlier, that there is a security component in terms of those specifications that we prefer not to release at this point, unless there is a good reason to. All of the rest, we are happy to release those service specifications.

The CHAIRMAN: I am saying publicly because we have got copies in confidence —

Mr Snowball: Yes.

The CHAIRMAN: — but what we are saying is: are you willing to make those public?

Mr Snowball: Yes, we are, with the exception of the security components, because we would prefer that to remain —

The CHAIRMAN: By way of supplementary information, can you designate exactly which clauses you believe cover that security aspect and, therefore, are to be kept confidential?

Mr Snowball: Yes.

The CHAIRMAN: Because I do note that in terms of the Royal North Shore Hospital in New South Wales, their full service specifications, or what appears to be their full service specifications, are up on the web, so people can see them.

Mr Snowball: That is right.

Mr Sebbes: There is a service specification called safety and incident management. It was that suite of services that was —

Mr Snowball: Yes. On the security side, there is an issue. How we handled that issue we need to keep in confidence.

The CHAIRMAN: If we could now come to the negotiations through this process and how you maintained competition, because it became very clear from the people doing these contracts in the UK that part of the difficulty with the earlier contracts is that they did not maintain competitive tension for as long as possible, which then led often to the person who won the contract knowing they have got the government over a barrel. Clearly, any company would know that they had you over a barrel because you have April 2014 as the start-up date, and there would be considerable embarrassment if you had to put that back any considerable time. So we would really like to get some feel as to how you maintained some competitive tension in there to actually get a good deal. When the third short-listed bidder withdrew from the process, did the Department of Health review the reasons why there was such a low level of interest in the project from the market?

Mr Sebbes: We limited the short list to three. That was not a low level of interest. There were a number of other groups that came through the expression-of-interest phase, and we short-listed it to three, and that is a combination of capability and the market telling us that they do not want to have a large number of bidders in what is a fairly comprehensive process and cost them a lot of money and time to put in a bid. We picked three because sometimes people do withdraw when they get into it and get the details of what you —

The CHAIRMAN: But even before you gave them the full specifications you were down to two, so we are really talking about two companies.

Mr Sebbes: Yes.

The CHAIRMAN: Were you satisfied when you were down to two bidders that there remained sufficient competition in the process to drive value for money and innovation?

Mr Sebbes: Yes, and we looked at that with our legal advisers as well. Whilst we did not use the competitive dialogue process, we kept the second bidder as a reserve bidder right through our process.

The CHAIRMAN: Right through until when?

Mr Sebbes: Till the contract was signed.

Mr Snowball: So whilst we had preferred contractors status for Serco, and we went through the detail of their proposal and their bid, we always during that process had the reserve bidder available to us should negotiations fall down for whatever reason.

The CHAIRMAN: So, was there ongoing communication with the reserve bidder, or had you really just told them that you might come back to them?

Mr Sebbes: We were not negotiating with the reserve bidder; we were negotiating with Serco. The reserve bidder was on hold. If the negotiations with Serco stalled for whatever reason, we would then go back to government and say, “We want to swap back to the other bidder and start negotiating with the reserve bidder.”

The CHAIRMAN: Were you happy with the time lines? Did you meet your time lines through that process from the start of the request for proposal through to deciding that Serco would be the contractor and then finalising the contract with them?

Mr Sebbes: We did not meet all the time lines. We provided an extension during the RFS process, at the request of the proponents. The negotiations took longer than we expected, yes.

The CHAIRMAN: And what reasons were there for that?

Mr Sebbes: There is a number of reasons. A lot of it was around the complexity of what we were doing and getting into that detail. Sometimes we had to get other expertise in to advise us independently of that so we knew what we were doing in terms of ICT and other things like that, which we —

Mr Snowball: But we were also careful not to rush that part of the process. That was some of the learnings as well that we got from others. So the process took as long as it took to make sure that we were satisfied that we had a very clear picture.

The CHAIRMAN: But, Mr Snowball, that is not realistic, is it?

Mr Snowball: I beg your pardon?

The CHAIRMAN: You are in hard negotiations with a very professional company. You are up against the wall because the government would not be happy if you cannot have the hospital open in April 2014. You, therefore, are in a corner, and that gives much more leverage to the company that is contracting or negotiating for the contract than it does for you. So your suggestion that “we’ll take as much time as we need” likely plays into their hands.

Mr Sebbes: Can I just make a point there: during the negotiations—both Serco and us had expectations that they would be completed earlier. During those negotiations, not one point was conceded for the delay in time to reducing any of their risk transfer or changing prices. The bid prices and the risk transfer stayed firm as to what it was. We were not forced into a position of changing the position because of the time of negotiations.

The CHAIRMAN: But there were many changes in the service specifications through that.

Mr Sebbes: Not in the service specifications. There were very few changes to the service specifications.

The CHAIRMAN: I will not disclose it, but you have given us both the service specifications at the start and what was in the contract, and it seemed to me that a great deal of the risk was removed from Serco by changes in those specifications.

Mr Sebbes: That is not my understanding.

The CHAIRMAN: We might have a discussion at another time in closed session.

Mr Sebbes: Yes.

Mr Snowball: But the point I was making earlier was your point about these projects can go awry. They can go awry, particularly if they are rushed and under an overt sense of pressure to deliver an outcome. I am making the point that our whole process was around making sure we get value for money, so every step in the way throughout the negotiations with Serco, that was the brief that the contract negotiating team from our end had to deliver. Yes, they needed to get on with it, but, at the same time, not at the expense of a good-quality contract at the end of the day.

[11.00 am]

The CHAIRMAN: But, as I already expressed, my concern is: when it came to paying \$1.3 million to the company that is advising you, you did not have any competitive tension. That is my concern, if that was the way you were operating with Paxon; you did not know whether you were getting value for money. There was no competitive tension, and competitive tension in a \$4.3 billion contract is crucial.

Mr Snowball: In terms of Paxon, Paxon was an adviser to us; it was not central to the negotiation process with Serco in terms of finalising the contract.

The CHAIRMAN: It advised you on the contract, from the information I have, as well as providing the public sector comparator, which was what you were using to see whether you were getting value for money.

Mr Snowball: Absolutely; its job was to provide that advice. That was the clear responsibility we had assigned to it. The point I am trying to make is that in terms of decisions about a \$4.3 billion outlay, that contracting decision ultimately rests with government. Paxon's role was simply as an adviser in that process. Ultimately you make decisions based on a whole range of advice and also your own skills and expertise within the public sector to get the negotiations done effectively.

The CHAIRMAN: Coming back to the request for a proposal stage, you did say that you kept the other company as a reserve bidder. Was Serco aware that you had it on hold as a reserve bidder?

Mr Sebbes: I believe so; I do not think any formal notification went to it, but I believe it was aware, yes.

The CHAIRMAN: That would be pretty crucial in terms of driving it to get the best competitive outcome.

Mr Snowball: What happens is, the initial letter is to them as the preferred provider, so it is very clear that it is preferred; they are not the sole, or they are not contracted to provide a service; they are preferred. It also establishes that we go through a process of negotiation with them and there is not a guarantee of contract at the end of that process, so that is made clear in the letter initially advising them —

The CHAIRMAN: But the reserve bidder does not mean anything. If they have dispersed their team to all corners of the world on other projects and they really have just signed off and are not interested, then you cannot actually hold that across Serco when you are negotiating with them that if it is not actually going to be real value for money, you have someone else in the wings. I am trying to get some idea: was the reserve bidder actually in the wings to exert that pressure on Serco when you were negotiating?

Mr Sebbes: Yes, they were, and they were in regular contact with us, asking for updates as to progress, not that we could give them much information on the progress of the negotiations.

Mr A. KRSTICEVIC: In terms of that sort of scenario, have you had other contracts where you have had reserve people to take up the contract and have you used them, in terms of how you manage that process? Have you ever gone back to the other tenderer?

Mr Snowball: Yes, this is a very common approach in terms of contracting out, to both maintain the competitive tension in there but also, more importantly, to see the job done. So long as you have a good competitive field, you can achieve that outcome. In this case, there was a lot of work done by both of these proponents in terms of thinking through the contract specifications and so on, so a lot of that work had been undertaken by both companies, so I would have been very surprised if the reserve bidder had turned their back on the possibility that things did not go well with the negotiations with Serco and that they could, in fact, have ultimate success with the contract. That is the normal course of business in these sorts of procurement arrangements that we try to maintain, particularly on big projects and complex projects.

Mr A. KRSTICEVIC: In terms of your history, have you gone to the reserve bidder on occasions?

Mr Snowball: I am aware of several occasions where we have gone to the reserve bidder, for a variety of reasons, not all of them because negotiations have fallen down with a particular company; there can be a multitude of reasons.

Mr C.J. TALLENTIRE: Was the reserve bidder bidding on the same 29 services?

Mr Snowball: Yes.

Mr Sebbes: Yes, they both had the same information at the same time, and nothing changed up until the closing of tender submissions.

The CHAIRMAN: In that procurement process and the final stages of trying to put together a deal and contract, did you use any of the competitive dialogue processes that now seem to be becoming more common in the UK?

Mr Sebbes: No, we did not. The advice given to us was not to use that process in this case.

The CHAIRMAN: Well, I just have some formal issues to close, but can I thank you very much for your evidence before the committee today and the papers which you have provided to us. We will enter into further communication with you to ensure that what is to be kept closed is what you want. You also gave undertakings to answer a number of questions, so I would appreciate it if those could come back. The transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, we will deem it to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Given some of the things you commented on, we will try to set up another meeting which may need to be all or in part closed, so we can go through some of that other information. We will, again, give you notice of the types of things we want to talk about. Thank you very much.

Mr Snowball: Can I ask how quickly we might get the follow-up and the questions to respond, so we can get onto that quickly?

The CHAIRMAN: We will give you notice as soon as we can. Some of that will come quickly but in terms of the formal procedures of the committee, we actually have to have a formal meeting just to sign off on it, so our staff have, under our rules of establishment, a fair bit of room to move in terms of negotiating with the people giving evidence to us, but the committee itself is not meeting for a few weeks now. Thank you very much.

Hearing concluded at 11.06 am
