

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

**AN INQUIRY INTO PUBLIC SECTOR PROCUREMENT OF GOODS AND SERVICES
AND ITS VULNERABILITY TO CORRUPT PRACTICE**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 17 SEPTEMBER 2018**

SESSION THREE

Members

**Ms M.M. Quirk, MLA (Chair)
Hon Jim Chown, MLC (Deputy Chair)
Mr M. Hughes, MLA
Hon Alison Xamon, MLC**

Hearing commenced at 2.57 pm**Ms NINA LYHNE****Acting Director General, Department of Transport, examined:****Mr MARK BURGESS****Managing Director, Public Transport Authority, examined:****Mr KEVIN KIRK****Executive Director, Finance and Contracts, Public Transport Authority, examined:**

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today. My name is Margaret Quirk; I am the Chair of the Joint Standing Committee on the Corruption and Crime Commission. I would like to introduce the other members of the committee who are present today. On my right is Hon Alison Xamon, MLC; on my left is Mr Matthew Hughes, member for Kalamunda. The Deputy chair Has had to head bush, so he apologises.

It is important that you understand that any deliberate misleading of this committee may be regarded as contempt of Parliament. Your evidence is protected by parliamentary privilege. However, this privilege does not apply to anything that you may say outside today's proceedings.

The PTA did not provide a submission to the committee so I am wondering whether you would like to make an opening statement in relation to procurement issues and its oversight?

Ms Lyhne: Without repeating, as I have said earlier, I would like to very briefly state that, yes we do take our responsibilities in this area very seriously. We have appropriate practices and procedures in place and will be very happy to talk you through any of those in detail. At the same time, we also believe that the culture of our organisation is a very important element in ensuring that we meet our responsibilities in this space. That is also something that we take very seriously, and actively work on. Mr Burgess may like to add more detail to the opening statement as he is more directly involved in the PTA.

[3.00 pm]

Mr Burgess: I endorse the comments from Nina. It is a big organisation—1 800-plus staff; pretty extensive contractor involvement, certainly in services contracts, the bus services, for example, and so on and the school bus services, but also a reasonable construction arm. We do have—endorsing Nina's comments—a lot of rigorous practices in place in terms of procurement, ongoing management of contractors and checks and balances to try to make sure that everything we are expending on behalf of taxpayers is well and truly value for money and ethical and we make a lot of effort to avoid any malpractice.

Hon ALISON XAMON: Mr Burgess, we touched on the fact that you did not put in a submission. We had requested a submission to this inquiry. Can you just explain why the PTA did not put one in?

Mr Burgess: We were literally just talking about it outside because Nina asked us why we did not. I am not sure whether it escaped us or how that was channelled to our organisation. I am not quite sure.

The CHAIR: Through the DG's office.

Hon ALISON XAMON: Of course, you can still put one in if you wish to.

Mr Burgess: I am certainly happy to if that assists.

Ms Lyhne: I think it might be useful if we do, so that it is clear to the committee exactly what our procedures are. I think it would be good to have that so we will undertake to do that.

Mr Burgess: Not a conscious effort, I have to say.

Mr Kirk: I have been fortunate to work in all three agencies in a similar role. I can say that the systems, processes, structures are all very, very similar in all three organisations. We all operate to the state supply and procurement policies. I have a bit of a unique oversight of all three bodies.

The CHAIR: Perhaps you can tell us how compliance is enforced internally for procurement matters and how it is monitored within the PTA?

Mr Kirk: All of our practices are in accordance with government state supply procurement policies. We have a centralised procurement branch. It operates under me. All of our approvals follow a delegation of authority; depending on the limit, they go up the ladder. All tenders over \$250 000 go across my desk. I recommend them, endorse them or approve them. My staff in the procurement branch act as the probity adviser for the lower value contracts. For higher value contracts or what we consider to be contentious or complex, we will have an external probity adviser from the big companies such as Stantons International or the like. There is always a level of probity for every contract but the major high-value complex ones are always by an external party.

The CHAIR: There is a contract that has attracted a bit of controversy, which is the Huawei contract for communications. Can you maybe outline what process went through there?

Mr Burgess: A tender was put to the market. Clearly, it was a couple of stage process. There was a short listing and then we went into a competitive ECI process—early contractor involvement process. That is a process where two parties are taken forward, or it can be more. That is interactive; a probity adviser is in all of those meetings. Then you work them through as they develop their proposal and their pricing and then you make a decision based on that at what was already a set point in time.

The CHAIR: What criteria did the probity adviser exercise or use to make an evaluation?

Mr Burgess: The probity adviser would not make an evaluation. The probity adviser ensures that the tender evaluation team stick by the state government tendering rules and stick by a value for money and genuine assessment of the proposals. The probity adviser per se does not make a decision; they make sure that the tender evaluation team makes the appropriate decision.

Mr M. HUGHES: Who do they report to?

Mr Burgess: There is a steering committee for that project. That is chaired by me. It has representatives from Treasury on it, and the CFO is on it as well. Obviously, there is a working team on that radio project and we have regular steering committee meetings. It is the steering committee, and the steering committee advises the CEO.

Mr Kirk: I am not sure whether Mark covered it but there is a requirement for a procurement plan to be done before you go to tender. That procurement plan will identify the criteria that it will be assessed on and who the evaluation team will be. I cannot remember the exact number but I think that particular contract would have had four, maybe five, voting members for the evaluation team. The evaluation team might also be supported by technical experts who have a non-voting role. The probity officer sits over the top of that just to make sure that everything is being done in accordance with due process and is fair and equitable.

The CHAIR: I am going to sound a bit xenophobic here. When you have overseas tenders, your capacity to maybe do the same level of due diligence is limited. Are any other steps or measures put in?

Mr Burgess: The tender evaluation team and the key players on that team and the probity adviser went to organisations like us—in other words, they did not go to their factories; they went to organisations like us, and these are the two in the competitive early contractor involvement stage—they went to sites. I think they were all in South-East Asia, as I recall, Kevin?

Mr Kirk: They did go to China.

Mr Burgess: They were all in Asia then. These two companies were at that final stage—basically to check their credentials because they put reference sites in their response that were appropriate, where they have put radio systems in and they go there to see, from the customers' points of view, whether that is accurate and whether their claims are accurate.

Mr Kirk: The important point there is the probity adviser was with them for the whole tour, if you like, for want of a better word. They saw everything and made sure that there was not anything untoward or whatever.

The CHAIR: Great. When Mr Langoulant came and gave some evidence, he said that internal audit does not get the attention it deserves. Would you agree with that, Mr Kirk?

Mr Kirk: I am not sure what context he said that. Certainly, the internal audit in PTA is outsourced. KPMG provide internal audit for the PTA. They typically do about 12 to 14 audits per annum and typically at least three or four of them are contract management related or procurement related. If that was the context he was talking about —

Hon ALISON XAMON: Do you not have any internal audit capacity at all?

Mr Kirk: No, it is contracted out.

Hon ALISON XAMON: Entirely?

Mr Kirk: Entirely. Although we do have an audit committee chaired by Mark and four other executive directors or general managers are on that.

Hon ALISON XAMON: What is the scope of that committee?

[3.10 pm]

Mr Burgess: The internal audit function performed by KPMG is exactly the same function as if we had internal auditors, so we agree a number of audits for the year. We have already done that, so it is planned well in advance. The KPMG team along with Kevin actually has a line manager, one of his senior managers, as the interface with KPMG on the audits, as well as Kevin and I meet with them separate to the audit committee meetings, to check how audits are going. We agree on what the range of audits is for the next financial year; that is us agreeing. They then go and meet with each executive director and GM of the divisions within the PTA and say, "Here's what these guys think. Is there anything else you think needs to be audited this year?" Then we will have an executive meeting, because usually the list of things that people would like to have audited is longer than the number of audits that we think is appropriate, given resource constraints, but we are usually pretty happy with the number of audits. We might put one out a year; if someone has picked what we think is low-hanging fruit, we might put it into the next year. We try to focus on the things that we think are most important to be audited, so probably the number of things we audit I would think is the same or even beyond if we had an internal audit function. Again, like Kevin, I have been in DoT in a previous life and in those days, at least, I think it was entirely an internal audit function and I think the horsepower we have with KPMG is probably as significant as any internal audit function I

have seen. The other advantage to it is if it is an audit on, say, IT, they will bring in IT specialists from either WA or even interstate, so it has worked fairly well. If you wonder where that came from, the PTA was largely created on the back of the old Westrail passenger business, and that is what they had in operation at the time—an outsourced internal audit function—so it has stayed that way.

The CHAIR: I am interested that managers are actually volunteering areas that they want audited. What is the dynamic for that?

Mr Burgess: Because they want to make sure that things are okay on their patch.

Ms Lyhne: Can I just say, we have a similar sort of process at Department of Transport, and it is a consultative process. They do not make the decision, but the auditors go out and actively seek things where the organisation feels it would benefit from an internal audit. It goes back to the culture conversation we have been having, because traditionally, many years ago, people would have said, “Oh, no, we don’t want anything audited because it creates a lot of recommendations that we then have to go out and implement”, but the culture in the organisation now is much more around, “Well, let’s audit an area where we’re going to add some value to the business, and we’re going to get recommendations that are really going to improve and enhance what we do”, so it is a consultative process. There will be things that will be added to the list that do not necessarily come from the managers who are responsible for the various areas, but quite often you learn about things that are really valuable.

Mr M. HUGHES: What is the current focus of management for the next 12 months? You have decided on that, so what are you looking at?

Mr Burgess: It really is wideranging —

Mr Kirk: Can I just clarify that? What happens is KPMG will come in and tell us what the trends are. They will say, “These are the things you need to be concerned about. Mark and I—particularly me as CFO—will say, “Look, I’d like you to have a look at this particular area”, and then they will go out to the GMs and the EDs as well and ask them if there is anything that is worrying them, and they will have exactly the same conversation with them. They will say, “Look, in the private sector and another government agency, these are areas of concern.” Typically, what they will do is they will come back to Mark and I with about 20 items, 20 different project areas. We will work through them with them and discuss them, and then there is a shortlist made of about 12 projects and then that goes to the audit committee. The audit committee also has OAG on that as a representative, and they will have their input as well, so it is a very robust process. The audit team that comes in will typically consist of about three people. We have the one audit manager, but typically the team will be three people and as Mark said, the team will be tailored to the particular audit you have. If it is IT-related, there will be IT, if it is asset management, it will have asset management, if it is procurement, it will have procurement expertise on their.

Mr Burgess: Just to answer your question, I quickly jotted some down that I can remember; Kevin will probably think of more. So, rostering: we have a mixed white-collar, blue-collar workforce, and quite a large number of PGAs; 1 800 are blue-collar, so train drivers, passenger ticketing assistants, transit officers, a lot of maintenance people for the maintenance of the tracks and so on, and they are on rostering arrangements. There is one on rostering, and that will be by different areas, so there will be a number of those. School bus payments is a contracted-out system; 940-odd school bus contracts around the state on fortnightly payments, so checking on those. Contract management; checking on safety management plans; checking on payment cycles and whether anyone has been overpaid or underpaid; Transperth bus contractor payments—substantial payments every month for Transperth bus contractors; again, checking on the controls and the payment profiles and so on; overtime for white-collar staff and for salaried staff; purchasing cards;

management of purchasing cards; IT controls; SmartRider controls for the SmartRider system and SmartRider revenue control; cash ticketing machine controls and revenue streams; and network and infrastructure contractor payments. I am not sure if you want to add anything?

Mr Kirk: No, that pretty well covers it.

Mr Burgess: They are the recent ones I can think of.

Mr Kirk: It might be worthwhile talking about the investigations branch we have, which is quite unique, and maybe what audit functions do in other areas.

Mr Burgess: A number of larger agencies have them; certainly Department of Corrective Services has them and I think Health and Education might have their own as well. We actually have our own investigators, so it is a team of three investigators supported by one admin person and they have their own direct relationship, as you are probably aware, with the Corruption and Crime Commission, so when we do our notifications for any serious misconduct to the CCC versus the Public Sector Commission, the CCC will make the call. I am not sure what the percentage is; a very high percentage, 90-something per cent, probably the vast majority, they will say to our investigations team, "You do the investigation."

Hon ALISON XAMON: A couple of questions about that. Firstly, what is the line management for this investigation team? Where does it sit within?

Mr Burgess: The manager investigations is a direct report to me.

Hon ALISON XAMON: To you? How do they respond to their complaints? Are they open to receiving whistleblower complaints? Obviously they have a direct relationship with the CCC, which is what you are saying, but otherwise what would inform the nature of the investigations that they undertake?

Mr Burgess: They will either be complaints made to the CCC, but more often than not, bearing in mind we have our own sort of police force, the transit officers, who have police powers on our property. A large number of the issues that they investigate are to do with —

Hon ALISON XAMON: Excessive force, those sorts of things?

Mr Burgess: Exactly, whether there is any use of force. So whenever a transit officer uses any force, whether it is pepper spray, a baton or even arrests, whatever it might be, then there is a report filled out, obviously. Separate to that within the transit officer team we have a director of security who runs all our security operations and the investigations team are quite separate to him, but they obviously know each other quite well. The director of security sits in Transperth train operations and has all the transit officers plus shift commanders, line supervisors and so on, underneath him. Another position he has in his team is a manager of professional standards and integrity, so whenever use of force is used, that fellow the next day checks CCTV, checks what the use of force was about. The advantage we have perhaps relative to the WA Police Force is that the vast majority of the transit officer interactions are caught on cameras and usually multiple cameras.

Hon ALISON XAMON: For the purposes of this committee, though, we are not looking at issues of excessive use of force by transit officers, we are obviously looking particularly at corruption risks around procurement. It sounds as though that internal investigation unit really would not be touching on the sorts of matters that we are speaking of. I am curious to know how that is resourced, because they are really quite different. They really have very different types of investigatory functions.

Mr Burgess: Yes, they are all very experienced investigators. I am sure you would have the ability to check with the CCC what they think of the PTA investigations team. I meet with CCC representatives, and they seem to rate our guys very highly.

Hon ALISON XAMON: Can I go back to this external audit function? Obviously, again, particularly interested in anything that has emerged around procurement over the last few years. Have the external audit functions identified any deficits around procurement areas or areas for improvement; and, if so, could you please tell us what they are—the sorts of systemic issues that have been identified?

[3.20 pm]

Mr Burgess: Yes, they have. I will be glossing over it because I do not have the detail immediately to hand, but they will have recommended checks and balances in the payment checking regime. I might hand to Mr Kirk in a minute. From the time we get invoices basically, through to the payment process, I can remember us making changes and tightening around that area. I do not remember anything specifically, other than what has happened across the state in terms of tightening of any tender processes. If there has been anything around tender processes, we will just pick up whatever the states' new rules are. Can you think of anything else, Kevin?

Mr Kirk: Yes, I can. It is a bit of a play on words, but I would probably say that there have not been any systemic issues as such, but they regularly raise improvement opportunities for us, either in the systems or the processes. That is one of the advantages of having external persons, because they probably have 100 other clients in private and public as well, so they bring all that to us. Typically, auditors by nature, whenever they do an audit, will come up with eight or 10 improvement opportunities on any topic, which is what we expect them to do. The other thing that we use them for is if we implement or develop a new system, as we did a few years back; we developed an automated purchase-to-pay process, where all invoices now, as soon as they come into the building, are scanned in and tracked from day one through the whole process, and the system introduces checks, controls and balances. We will typically get the auditors to do a review of it before we implement it, so rather than wait until we have implemented it and then find problems, we will work with them through the development and design of the process. I do not think they have ever identified any systemic areas that we have never addressed, but, certainly, they regularly come up with improvement opportunities.

The CHAIR: If we leave the word “systemic” out, we are actually interested in some case studies. Do you recall any individual instances that have led to maybe improvements or modifications?

Mr Kirk: A lot of things revolve around what is recorded in the systems, how we record it, standardisation and naming conventions. Back in the early days, we made some changes to the delegations of authority—who could approve things. Further segregation of duties is one that has come up from time to time, so we have made sure that basically anything to get paid has to go through three major steps. One is the receipting of the item, one is the incurring, and then one is the certifying. The major steps are all done by different individuals. All of our systems now are automated. We have a no purchase order, no payment system, so before anyone can go out and place an order, they have to have a purchase order. That purchase order has to be approved. When the invoices come back in, they have to match to that. If it does not match, there is —

Hon ALISON XAMON: Can I ask, following on from the Chair's queries, have these emerged as a result of specific instances? Have these identified needs for improvement that have come about because of that?

Mr Kirk: Not from specific instances of fraud, inappropriate behaviour or whatever, but from system audits. In other words, they will come and do one. One of the ones that we typically do every couple of years is accounts payable or purchasing cards. We have something like 200 active purchasing cards out. Because of the nature of our business, we have a lot of minor procurements. They are items that we typically roll in—every two or three years will have an audit of it, in particular components of that process.

The CHAIR: Reference was made earlier to basically depending on the value of a contract, it is approved at a different level. Is that a monetary value? Can you maybe just take us through that?

Mr Burgess: I have a delegation of up to \$5 million and then the CEO has an unlimited delegation.

The CHAIR: What about below you?

Mr Burgess: Each ED and GM has different values. Kevin may recall them off the top of his head, but I am not sure. It depends on the nature of their business.

Mr Kirk: Do not hold me to it, but broadly speaking, and remembering that each division is quite different, Transperth buses, for instance, has a lot of big contract payments that it makes. I think the ED there has a limit of about \$2 million. I think it is similar in N&I. Other divisions, such as HR, safety and strategy, have very small payments, so their delegation is typically a lower amount. It might be, say, \$500 000. We tailor it typically for the business and then that feeds all the way down the line so you have the CEO, MD, EDs, and then the level 8 reports to the EDs and GMs will have a lower amount. It could be a couple of hundred thousand dollars or it could be \$500 000 depending on the nature of their business, remembering that —

Mr Burgess: That is all in our delegations list, which we could supply as part of that document, if you want us to.

The CHAIR: Are there any that are just DG only?

Mr Kirk: Can I just make the point I am at?

The CHAIR: Yes, sorry.

Mr Kirk: Most of those payments result from a contract that has already gone through all the steps that we talked about before—a competitive process, the contract has been awarded, then the payments result from engagements with that contractor and whatever. Sorry, I cut you off.

The CHAIR: I presume, if you have a delegation at \$5 million, you have the power to have some input into the actual procurement process, theoretically. I know it is a different role, but —

Mr Burgess: Absolutely. I could be involved in any procurement process I wanted to. Clearly, we have a big business and you cannot be involved in them all. All of the staff who are involved in our procurement activities are trained and understand their responsibilities.

The CHAIR: What is the nature of that training?

Mr Burgess: It has varied over time. We used to have a cert 4, as I recall, Kevin, and it has evolved a few times.

Mr Kirk: It has.

Mr Burgess: Is it still a cert 4, or is it cert 3? I cannot remember.

Mr Kirk: It is cert 4.

The CHAIR: How regularly is that training? Is it updated?

Mr Kirk: The last one we ran was, I think, about 12 or 18 months ago, but there is training and training. For instance, for P-cards, which I said we have 200 active, before you get a P-card you have

to go and do an online training course. It takes about 15 minutes to do it. You have to pass it. If you pass it, then you are given a card. There is a whole lot of other one-on-one type training that we will do. Then we have these formal training programs as well. Then there is obviously on-site training that is done.

The CHAIR: Are there any rules about lengths of contract these days?

Mr Burgess: We have an exemption from State Supply for some of our contracts. Our long-service contracts with the bus companies, for example, are 10 years. Five years is typically the state position on most service contracts, but we have a special exemption for those. It is the same with the school buses; the school bus contracts are generally aligned to the life of the bus, although some of them, some years ago, were taken to evergreen contract arrangements.

The CHAIR: Can you explain them?

Mr Burgess: Yes, they are interesting. They were a position taken under the last government —

The CHAIR: Which the committee wrote to you about, and we got two letters back saying they did not know what we were talking about.

Hon ALISON XAMON: Yes.

The CHAIR: We did not use the word “evergreen.”

Hon ALISON XAMON: No, but we asked specifically about this issue, so please feel free to elaborate.

Mr Burgess: I do not remember it; sorry.

Mr Kirk: We did get an inquiry on did we know anything about school bus issues a few months ago, but it was not to do with being evergreen.

The CHAIR: Anyway, let us get on with the evergreen now.

Hon ALISON XAMON: Yes. Please feel free to inform us now.

Mr Burgess: Okay. Kevin is right; there was an unusual question and we did not quite understand what it meant. It was phrased in such a way that it was very hard work it out.

The CHAIR: Okay; we are all ears.

Mr Burgess: It was actually a position taken by the previous government.

The CHAIR: Which was?

Mr Burgess: There had been a school bus process under Minister MacTiernan some years ago where school bus arrangements, which were once with the education department, were handed across to DoT in about 1996. It was subsequently picked up by the PTA when the PTA was created in 2003. There had always been the shadow of doubt as to whether there was some perpetuity to those contracts. There was a reform process. The member for Wanneroo, Dianne Guise, led a task force on it—they were all very published documents—and there was a long period of negotiation and deliberation with the industry. They were given a long-term contracts of 20, 25 years—that sort of nature. They did vary; that is why I am saying those two different numbers. That was partly in recognition, I guess, of the perceived perpetual nature of their contracts. There were ultimatums from both sides as to whether this would end up in court.

[3.30 pm]

It ended up being that these long-term arrangements, I will not say satisfied the industry, but it put the matter to bed. It is fair to say the immediate previous government —

Hon ALISON XAMON: So, the Barnett government?

Mr Burgess: Yes. It came in with a different policy position on that. They had a view that the school bus industry, and I think they were thinking particularly in country areas, serves a particular role. It is more than just a commercial industry. I do not want to quote people, but they had a particular view of what school buses meant to the country. They changed the nature of those arrangements to be perpetual contracts again.

The CHAIR: Okay, so how many of those are in existence now?

Mr Burgess: Please do not quote me—I think it is 690 or 693.

Hon ALISON XAMON: So there are 690 contracts that will exist until the end of time?

Mr Burgess: They have opportunities where they can be ceased. If there is no more need for the contract, that would be the cessation—and they can be on sold, obviously.

The CHAIR: Finally.

Hon ALISON XAMON: Wow!

Mr Burgess: I have to say that this was actually in the media at the time. At the time it happened, it was actually publicly disclosed and so on.

The CHAIR: We are not criticising you; you were directed to do that. That begs the question about what was that process of changing the policy. I mean, there must have been people saying, “Well, these are our guidelines and you want us to do this.” Was that generally the sort of nature of the dialogue?

Mr Burgess: We certainly represented what the state position was on these things, and I think SSO did as well.

The CHAIR: Okay. I do not think there is anything more on that.

Mr Burgess: Not all school buses are on that. Certainly, Minister Saffioti has made it clear to the industry that the remaining contracts that were seeking to be moved across will continue to be time limited and out to the market and value for money competition.

Hon ALISON XAMON: Can I just confirm—are those 690 contracts all regional?

Mr Burgess: No. Some would be what are called special education services in the city.

Hon ALISON XAMON: So a combination of regional and special education services.

Mr Burgess: Yes. Broadly, there are about 120 special education services and they are mainly in metropolitan Perth.

Hon ALISON XAMON: Okay. Thank you.

The CHAIR: A register of conflict of interest—does the PTA run one of those?

Mr Burgess: We do not as of right now, but I know our manager of investigations was just in the process of starting one, as I recall.

Mr Kirk: We do as part of the end of financial year arrangements. All the EDs and GMs are required to do an annual declaration of any conflict of interest.

Mr Burgess: And during any procurement process.

Mr Kirk: So we do that, and then during any procurement process. I talked before about an evaluation team. All evaluation team members have to sign off and say that they have no conflict of interest for that particular tender, so there is a process there. Then we have our overarching code of conduct and whatever. We maintain a gift register as well, not that too many gifts are accepted

now, if any. If there are, then they are maintained in the register. They are typically all very low-value, trivial-type items.

Mr Burgess: The only other thing I might add is that a number of years ago now—I cannot remember when, but a few years ago—we decided that we wanted to go to a process where all people in key procurement and key expenditure positions actually had a police integrity check.

Hon ALISON XAMON: That is a good idea.

Mr Burgess: We retrospectively did that for all those key players, which was a couple of hundred.

Hon ALISON XAMON: Did you find that anyone had to go as a result of retrospectively undertaking that?

Mr Burgess: No.

Hon ALISON XAMON: That is fortunate.

Mr Burgess: Now we have it for all new employees coming in, regardless of their position.

The CHAIR: The DG did answer in response to one of the other hearings about managing leave and people actually taking leave. Is that something that is done in the PTA, or is there the odd control freak that will not go on leave?

Mr Burgess: There are people who have excessive leave balances, but there is an active program to try to reduce their leave balances.

Hon ALISON XAMON: It has been found that regular leave is a good mitigator to corruption risks.

Mr Kirk: Yes. One of the basic audit functions is that if somebody does not take leave, it does raise some questions. I am pleased to say that I will be clearing all of my leave shortly!

The CHAIR: The Corruption and Crime Commission did have an educative function in relation to going around to agencies and telling people about potential risks and prevention. They have been divested of that and it is now the Public Sector Commission. Can you recall the last time that people within the agency received any such training?

Mr Burgess: We probably do a bit more in that space than most. That is fair enough, given that we spend a fair bit of money. We actually engage with both the CCC and PSC on this. We actually grab all of the key people who spend money and make financial decisions and manage contracts and sit on tender panels. This year it was the PSC's turn; last time it was the Corruption and Crime Commission's turn. We have them come in. I give a presentation and Kevin gives a presentation. It all takes about an hour and a half. Then we hand the floor over to either the CCC or the PSC. We have a theatre in the public transport centre that holds just over 100 people. We can put in some extra chairs. I think we ran 450 people through that hour and a half this year.

Mr Kirk: Just over, I think, in total.

Mr Burgess: That is very much, "These are the things you have to be very careful about doing. These are the case studies of people who have transgressed across state government." We also drift into other jurisdictions. We will pull good examples from other states where someone has done something significantly stupid. And we make it clear what the ramifications are.

The CHAIR: We were fortunate to be at a conference last year where we had an excellent presentation from New South Wales railroads. You would probably be familiar with those. They worked out that bureaucrats were only half of the story. They actually read the riot act, I think, to tenderers themselves. They have found a major reduction in corruption practices. Has there been any thought addressed to that, especially with Metronet coming online? That is going to be big expenditures.

Mr Burgess: We try to make it clear through just our normal documentation that we are not an organisation that entertains such approaches, but it is a really interesting point. Maybe we should be doing more in that space as well, pushing information to tenderers.

Mr Kirk: We have put out a very clear message, for the last eight years that I am aware of, that gifts are not to be accepted. We used to have regular occasions where gifts were returned and the contractors were advised. I am not aware of any incidents in recent years where anything other than a very trivial-type thing has been received. They are all declared and open.

The CHAIR: I do not necessarily think it was gifts per se; it might have been giving some information to a prospective tenderer.

Mr Kirk: I guess I see that as the thin end of the wedge; you know, the grooming part, if you like. That is generally how people start to gauge the mood and whatever, but you are quite right.

The CHAIR: I would recommend getting in touch with New South Wales rail; it was really quite enlightening.

Mr Burgess: They had some significant issues a few years ago, so we watched that with interest.

Hon ALISON XAMON: I just want to confirm that your gift register is that you discourage all gifts?

Mr Kirk: Our policy is we discourage all gifts, yes.

Mr Burgess: Our uniform position is to just say no, whether it is an invitation to events or any form of gift.

The CHAIR: KPMG has had the role of auditing in the PTA for how long?

Mr Kirk: There are two sorts of audits that we are subjected to. For our internal audit, KPMG are in their third five-year contract at the moment, all of which have been competitively tendered and an evaluation done. OAG, as you know, do annual audits and come into every agency. OAG typically outsource a lot of their business. I cannot remember the last time OAG personally did audits of PTA or any other organisation I have been in. In PTA, since I have been there, we have had Deloitte, EY for a very short time and we have RSM at the moment. The reason we had a change in that was because OAG have a policy that if you are an OAG auditor, you cannot do any other work for that organisation. We had both Deloitte and EY make a commercial decision that, for a couple of hundred thousand dollars of engagement for OAG, it was ruling them out of a whole lot of other work. They made a commercial decision to pull out of that. There was no reason other than that. We have RSM now and they are in their third year, I think.

[3.40 pm]

The CHAIR: You said that the previous contracts had been evaluated. Who does that?

Mr Kirk: I generally chair that. I am on the evaluation panel. The last time we did it, we had the business manager from network and infrastructure, which is one of our biggest and most diverse divisions. I think the last time, bearing in mind it was three years ago when we did that, I had my manager of accounting services on it. Just remember, the approvals process for that then is that that will go back to the procurement branch and a procurement representative is there as the probity adviser and the manager of procurement will check—quality control—and make sure it is all good. Normally, it would come back to me to approve it, but given I was the evaluation, it would have gone straight to Mark for approval then.

The CHAIR: And what sort of qualifications does the probity adviser have—normally accountants of some description?

Mr Kirk: Not necessarily—more a procurement specialist, so more people from my procurement branch. Most of them have a procurement qualification of some sort, but many years of experience. From the private sector, we use Stantons a lot, as we do another couple of companies. Typically, the lead person there has worked for government for a long time, ran his own consultancy business for a long time and, I think, prior to that he was a procurement specialist in the army. So a procurement specialist.

The CHAIR: The PTA has some big projects ahead, as I have already mentioned. Is there a special team for that? How is that all going to be organised?

Mr Burgess: In our delivery areas, network and infrastructure is the division Kevin referred to. If you think of the train system on any given day, that is the division that looks after all the infrastructure—track, overhead and so on—and clearly is about 300 strong, but also uses a lot of contractors to help with fixing that and keeping it maintained on a daily basis. As well, they will do what are minor projects—sometimes in the tens of millions, but generally less than the tens of millions, of dollars. The dividing line there is we actually have another division called the major projects division, and that is the division that has done all the bigger jobs—Butler extension, Aubin Grove station. A station might be almost the dividing line. If it is a station, it would go to major projects; if it is something below that, it may well be done by network and infrastructure—more day-to-day work. But major projects are delivering Forrestfield–Airport Link as we speak and will be driving Yanchep and Thornlie as the first cabs off the rank under the new Metronet projects.

The CHAIR: Given the extent of that, do you need to beef up your procurement people or are there any issues that come into play?

Mr Burgess: Yes, we do on both. That has happened. In the major projects area, that tends to be an area which grows. It is very similar. Ours is largely modelled on Main Roads, which had a major project division before we did. We have modelled ours on theirs. It is a team which will have a number of core staff and a number of fixed staff—five-year or more contracts with those people—because once you have built certain things, you do not need them any further. It is populated by a lot of engineers, designers and so on, but also procurement people who were recruited. In terms of helping and making sure that we get the right people, Kevin's team will offer assistance on the recruitment panels. If it is someone from a speciality area, like procurement, and you want to have procurement experts on the recruitment panel, he will offer that assistance to our ED of major projects. Otherwise, the major projects team still use all the normal functions that sit within the PTA. All the contracts are run back through Kevin's team, as is the legal advice run back through our lawyers and through the State Solicitor's Office. They are a special division to deliver major projects, but they are still just part of the normal PTA.

The CHAIR: Presumably, there will be times when this work is quite demanding; everything will come at once. Do you have a solicitor embedded from the State Solicitor's Office?

Mr Burgess: Not embedded, but working out of SSO but pretty much embedded on our project—so allocated to our projects. In fact, there are several of them. I was at the FAL office a few days ago and it was about 6.30 at night and she was there working then. I think she is embedded out there most of the time. They are in an office out near Redcliffe near the project. She was there then and I see her all around the place. She was once our corporate solicitor and then she moved to SSO, so she knows our place particularly well.

The CHAIR: Thanks very much for your evidence today, particularly Ms Lyhne. Thank you; it has been a long haul.

A 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, it will be deemed to be correct. New material cannot be added via these corrections and the sense of our evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a submission for the committee's consideration when you return your corrected transcript of evidence. Thank you.

If you do have any case studies, given you now understand the exact tenor of what we are interested in, we would appreciate you providing them.

Hon ALISON XAMON: And particularly how they were handled—how they were resolved. Did they result in dismissal or discipline or did they quit before anything could happen—that sort of thing.

Hearing concluded at 3.46 pm
