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17 OCT 2011
BY: Matthew

Mr John Kobelke MLA
Chairman
Public Accounts Committee
Western Australia Legislative Assembly
Parliament House
Harvest Terrace
West Perth WA 6005

17 October 2011

Submission to the Inquiry into the decision to award Serco Australia the contract for the provision of non-clinical services at Fiona Stanley Hospital

Dear Mr Kobelke,

Please find attached United Voice WA's Submission to the Inquiry into the decision to award Serco Australia the contract for the provision of non-clinical services at Fiona Stanley Hospital.

United Voice looks forward to the outcome of the Inquiry.

Please contact me if you require any assistance.

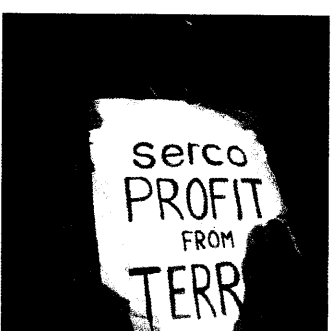
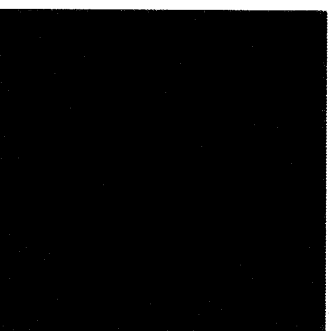
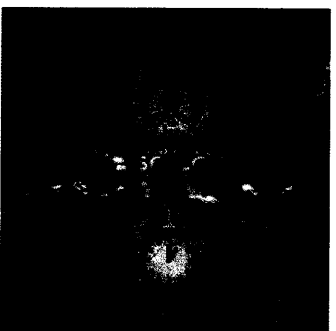
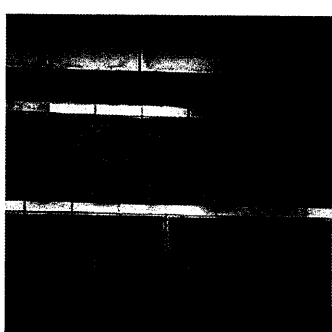
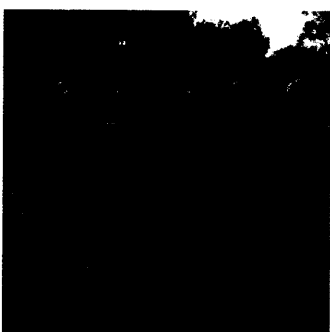
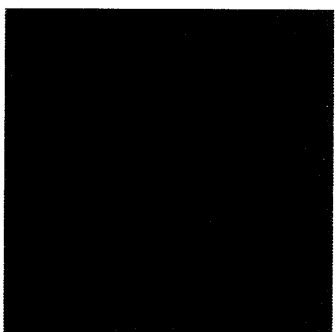
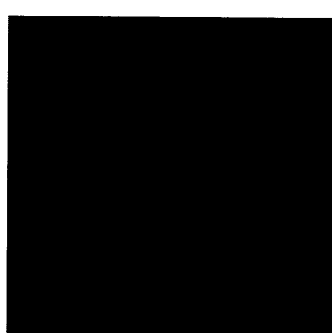
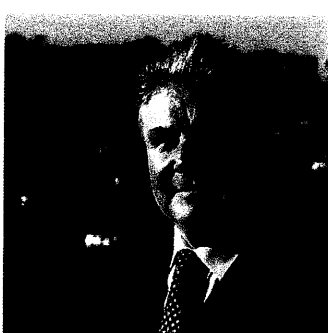
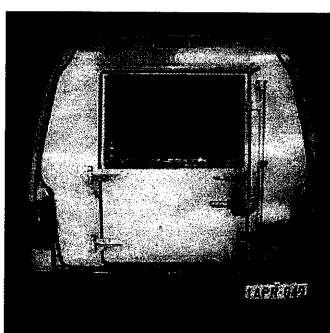
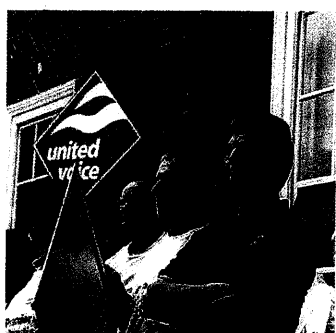
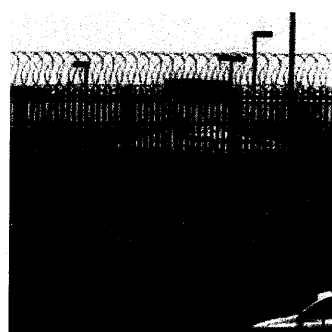
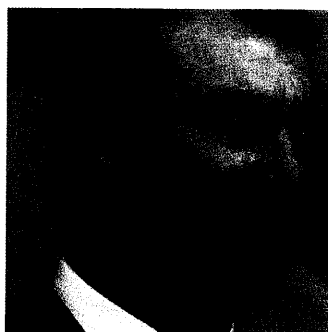
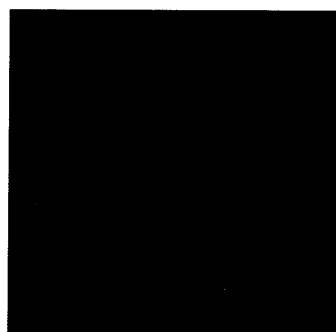
Yours sincerely,

Dave Kelly
Secretary, United Voice WA

17 October 2011



State Secrets:
The Barnett Government and Serco's secret deal on services



Avoid

Deny

Assimilate

Profiteer

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Submission to the Inquiry into the decision to award Serco Australia the contract for the provision of non-clinical services at Fiona Stanley Hospital

1. Executive Summary

- 1.1. United Voice represents thousands of staff in our public and private hospitals including nurses, nursing assistants, patient care assistants, cleaners, orderlies, catering, stores and sterilization. United Voice has firsthand experience of the Court Government's privatisation of health services in the 1990s.
- 1.2. United Voice has vast experience with contract arrangements in industries such as cleaning, security and catering. United Voice also represents members in other industries that demographically are most likely to rely on the public hospital system for essential medical care. As such we are uniquely placed to provide material that is of interest to the committee.
- 1.3. United Voice's concerns about the privatisation of services at Fiona Stanley Hospital (FSH) go to the heart of the issue of privatising essential public health services and in particular concerns about Serco itself, the company that has been awarded the contract.
- 1.4. The rationale for the decision to privatise some services [27 in all] rather than have WA Health operate the hospital in its own right is shrouded in secrecy. Neither the business case nor the public sector comparator have been released for public scrutiny.
- 1.5. The range of services to be privatised at FSH limited the operators that would be likely to tender. Serco seemed destined to win the contract.
- 1.6. Previous experiences of privatisation of services in WA hospitals have been a failure. Cleaning at RPH, the orderlies at SCGH, problems at Peel and Joondalup all seem to have been ignored and are destined to be repeated.
- 1.7. The contract with Serco is incredibly complex and will rely on the goodwill of Serco for much of the compliance arrangement to work. WA Health has 150 years experience of directly running hospitals but has little experience in managing contracts of this scale.
- 1.8. The contract allows Serco to sub contract out any or all of the work to other companies putting the operation of FSH further out of the direct control of the Government of WA.

- 1.9. The use of a private operator is said to transfer the risk from the State to the private operator. In reality the State will always bear full responsibility for the success or otherwise of FSH. If the hospital does not function well it will be the taxpayers of WA who will hold the government accountable.
- 1.10. The State is ultimately responsible financially for FSH. If the private operator fails the State will have to pick up the costs of this failure; as it has had to do in the past when attempts to privatise services have failed. In the current turbulent global financial environment engaging a multi-national corporation with international risk exposure, such as Serco, exposes the WA health system to unacceptable financial risks that would not apply if FSH was operated in-house by WA Health.
- 1.11. Serco Australia Pty Ltd has no experience in operating hospitals. Its parent company has only limited experience in two UK hospitals. The FSH contract goes well beyond Serco's experience anywhere in the world yet we have entrusted our flag ship teaching hospital to a company that has never held a contract like this before.
- 1.12. Serco's track record in its other operations, such as Detention Centres, gives all Western Australians many reasons to be concerned. Under staffing, poor training, cost-cutting and lack of planning are just some of the problems that have been uncovered in Serco's other operations.
- 1.13. The Government's decision to privatise services at FSH appears to be driven by ideological belief rather than through sound rational examination of the facts.
- 1.14. Finally, while United Voice has attempted to group its comments under each of the five terms of reference the overlapping nature of the issues means that our submission should be read as a whole. United Voice's comments on the terms of reference are attached.
- 1.15. Throughout this submission sources are referenced using footnotes. These source documents are also included as Appendices, a list of which is found at page 23.

2. **Project definition processes undertaken to identify both the services required at the hospital and which of those services are to be provided to Serco Australia.**

2.1. United Voice makes no comment on the government's decisions concerning what services are needed at FSH. However, United Voice can't see any logical process by which the Government has decided which services [if any] are to be provided by the private provider and which services are to be provided directly by WA Health.

2.2. The Government has engaged in a secretive decision-making process to determine which hospital functions are to be privatised. This process has not been open to public scrutiny because the Government has consistently claimed commercial-in-confidence grounds to avoid being held accountable. The government has not released the FSH Business Case or the Public Sector Comparator. Without these documents, along with others that record the Government's decision making processes, it is impossible for the taxpaying public to be confident that the decision about what services are and are not to be privatised has been made by a legitimate process.

2.3. United Voice therefore recommends that the Committee obtains from the Government all of the relevant information relating to the deliberative processes so that it can be placed in the public domain for scrutiny.

2.4. In the absence of an officially documented process of decision making United Voice raises two issues that we believe significantly influenced the Government's decision to privatise services at FSH.

2.5. Firstly, the decision was driven by the Barnett Government's ideological commitment to the privatisation of government services, a position illustrated by the Premier in a speech to WACCOS in May 2010. Despite private providers in the Disabilities Sector acknowledging that the industry is in crisis due to insufficient funding, unmet demand, staff shortages and a lack of organisational capacity the Premier still championed the sector as a model to be followed. He said:

*"If you look at the services provided through the West Australian Government, the Disability Service Commission is a stand-out performer. Something like 60 per cent of all government spending in the disability sector is channelled through non-government community based organisations. That leads the nation **and is a model I would like to see replicated across other areas of government service**".ⁱ*

2.6. The hollowness of the Premier's statement is demonstrated by the subsequent fact that the Disabilities Sector was the main recipient of the \$600m rescue package announced in the last State Budget, which was needed to maintain the viability of the Community Sector.

- 2.7. Secondly, the Government's public statements consistently refer to the services that are to be run by Serco as "non-clinical services". Both the Minister for Health and the Premier have also used the term "back room" to describe these services. The use of these terms is clearly designed to indicate to the public that only unimportant services are to be privatised. This is either a deliberate ploy to allay public concerns about privatisation or it shows a genuine lack of understanding of the integrated nature of the services in a hospital.
- 2.8. The proposition that the services required to operate a tertiary hospital can be categorised into 'essential' and 'non-essential' or 'clinical' and 'non-clinical' is nonsense. If any service fails then it adversely impacts upon the functioning of the entire hospital. Poor cleaning, insufficient or undertrained orderlies, sub-standard sterilisation techniques, poorly managed patient records and inadequate building and equipment maintenance are just a few examples of failures of so called 'non-clinical' services that have profound impacts on patients' clinical outcomes. Examples will be given in this submission that will demonstrate this point. What is concerning is that in the pursuit of an ideological agenda the Government has ignored the valuable lessons learnt from past mistakes.
- 2.9. The Government had only to look at the experience of two services privatised by the Court Government in the 1990s to see the danger in privatising these services.
- 2.10. Firstly, in 2001 it cost the State \$2.7 million in enhanced infection controls to contain a major VRE outbreak that directly resulted from the privatisation of cleaning services at RPH. One hundred and seventy two patients were infected. The Minister for Health has acknowledged that privatisation of the cleaning at RPH resulted in sub-standard work and infection outbreaks when he said:

There was a significant reduction in the number of staff and an attempt was made to get people who were not responsible for cleaning to do the cleaning. It was done improperly and was a significant contributor to the outbreak of infection that occurred on that hospital.ⁱⁱ

- 2.11. A union member said of the privatisation of cleaners at RPH:

I can without a doubt say that I was often not happy with the work I was doing because I knew that it was not being done correctly, it was not being done correctly because you are literally running to complete duties, bare minimum staffing resources were being utilised to try and keep up with the task of cleaning a hospital, and a facade was being painted on the outside that all was well when really areas were going without being cleaned for days at a time, people who are sick of not being covered and due to this being asked to do 2 areas and "just skip it over tonight" featured quite prevalently and ultimately at the end of 2001 these practices and the use of Patient Care Assistants to do ward cleaning as well as patient care assisting as there were no dedicated ward cleaners at the time, culminated and led to the VRE outbreak of 2001.

Brodie Clayton – RPH

2.12. In the current environment where the fight against superbugs is one of our hospitals' greatest challenges the characterization of cleaning as "non-clinical" or "backroom" and therefore less important than other functions in a hospital is not just foolish it is outright dangerous to patients.

2.13. Secondly, when the Orderly Service at SCGH was privatized in 1995 the private operator, P&O cut the number of orderlies from over 100 to only 56. The result was chaos with other hospital staff such as nurses being forced to fill in the gaps left by an inadequate orderly service. The contract was ultimately more expensive and less efficient. The failure is documented in an independent Canadian study published in Industrial and Corporate Change, Vol 13, No 3 [attached as appendix 3].

2.14. Below is an extract from the article:

Higher than anticipated transaction costs and production costs were experienced by the hospital and there were negative impacts on service quality and other parties (e.g. nurses). In contrast, when the service was returned to in-house delivery, transaction costs and production costs were lower than could have been achieved by contracting out the service. Hospital management and staff also considered the in-house service to be of higher quality than the orderly service it replaced. Customer satisfaction improved distinctly.....

2.15. Speaking of the privatisation of SCGH's orderlies a staff member recalls:

"There was no doubt patient care was compromised because patients were left in x-ray or bay areas for long periods before they got transported back to their ward. This could mean a patient would be sitting in a wheelchair or bed for sometimes up to two hours.

Some sick patients had to be escorted because of their condition by a nurse— this impacted on nursing ratios for the patients left on the ward that had to be looked after. Because of the change in orderly services no orderlies were on the ward to help with the shortfall of nurses as we previously would have done. Some nurses would be away from the ward for lengthy periods of time."

Geoff Cardinal – Sir Charles Gairdner Hospital

2.16. The privatisation of the orderly service at SCGH was such an obvious failure that the work was brought back in-house by the Court Government before it was defeated in 2001.

2.17. The current Minister for Health admitted in November 2010 that he was advised by the Apollo Hospital Group, (the operator of 54 hospitals and one of the largest healthcare groups in Asia), that the privatisation of orderlies had been tried by them and had failed. The Minister was advised that to have proper vertical integration of services within a hospital system, it was important for orderlies to be included in the public and not the private sector.ⁱⁱⁱ Despite an undertaking from the Minister that he would review the decision the Government proceeded to privatise the service. We are not aware of any evidence that the Minister actually reviewed this decision.

- 2.18. Despite these well documented examples of patients suffering when services are privatised this Government has turned a deaf ear to these issues when they are raised. The response from one back bencher, the Member for Jandakot, typified this attitude when concerns about FSH services being privatised were raised with him by one of his constituents. Just weeks before the Government announced that Serco was the preferred tender he said by email:

"The only one who has been 'duped' is you by Labor lies.

FSH will be a government owned and government run hospital. Dave Kelly never asked me what I thought before he decided to take it upon himself and his union love fest of deceit.

Mark my words, you have been sucked in by his scare mongering and all he is doing is playing dirty politics in order to secure himself a safe labor seat at the next election.

If any minor services do get contracted out, I would only support them going to not-for profit organisations like Vinnies or the Salvos. Any money they make they put back into the community towards the poorest of people. I am sure even you wouldn't have a problem with that. (Emphasis added)

XXXX, open your eyes and stop listening to the rubbish coming from your union. Fiona Stanley is four years away. This is a pathetic labor scare campaign and you know it.

Pass on my regards to Dave whom I sure (sic) you will forward this to.

Joe"iv

- 2.19. As indicated earlier, with little or no public information available to examine the process the public can be rightly suspicious of the outcome. In this case the final mix of what services are to be privatised and those that are not is very surprising.
- 2.20. The scope of the Serco contract, 27 hospital functions, ranging from IT to catering, has not been seen in Australia before and we are not aware of a similar hospital contract in other countries. In other examples of privatisation governments have either privatised the whole hospital or individual functions such as cleaning or catering, or a combination of cleaning, catering and orderly services. We are not aware of any Australian or overseas example where such a large proportion of a hospital has been privatised without handing over full control to the private operator.
- 2.21. United Voice has seen no material from the Government to explain this decision to embark on a contract that is unique and untested in its scale.
- 2.22. What can be concluded from the scope of contract is that the Expression of Interest process was not truly competitive and was tailor-made to suit Serco Australia. By restricting the scope to 27 of the hospital's functions [rather than calling for someone to operate the whole hospital] hospital operators such as St John of God and Ramsay Healthcare were not interested in the contract. In fact we are not aware of any hospital operator putting in a bid.

- 2.23. By bundling the 27 functions to be privatised into one contract rather than inviting expressions of interest for individual functions such as cleaning, catering or IT numerous companies experienced in those areas were ruled out because they could not do all of them.
- 2.24. Finally, the evaluation criteria weighting of 25% for demonstrated hospital experience effectively eliminated other project managers from being serious contenders.
- 2.25. The uncompetitive field that resulted from this process is demonstrated by the fact, as we understand it, that Brookfield Multiplex was the second placed bidder. Given Brookfield have no hospital experience anywhere in the world demonstrates how the process inevitably produced the outcome it did.
- 2.26. Serco had clearly been lobbying for this type of contract since the election of the Barnett government. Serco acknowledges that the FSH contract goes well beyond what they have done before and they see it as a launching pad for their global health business. Serco's lack of experience was admitted by David Campbell the CEO of Serco Asia Pacific in a press release dated 19 October 2010:

Fiona Stanley Hospital is an extraordinarily significant win for Serco. While it builds upon services we already provide in the commercial, local government and health sectors, the scope and scale of the contract goes beyond what we currently do, establishes Serco firmly in the health market in Australia, and will support our growth ambitions across the globe.^v

- 2.27. Serco's CEO's statement is in stark contrast to the Minister for Health's statement that Serco *is an international specialist in running hospital support services* and that *the evaluation has been extremely rigorous and we are confident that our new public hospital will benefit from Serco's wealth of experience running high quality support services at public hospitals in the United Kingdom.^{vi}*
- 2.28. Given the Government's determination to privatise the delivery of some hospital services the selection of Serco Australia became a fait accompli for the want of competition.
- 2.29. Of concern also is that the scope of services to be privatised was not finalised prior to the contract being put to tender. Serco was chosen as the preferred operator and then had input into the final decision on what services were to be included in the contract. In the public interest the decision should have been made without the private provider's influence. The fact that Serco had input leaves the possibility that the final decision reflected the company's interest and not solely the interest of the public of Western Australia.

3. Procurement plan, including the public sector comparator, endorsing the private sector delivery of non-clinical services at Fiona Stanley Hospital.

3.1. The Government has consistently refused to release the business case and the public sector comparator, claiming commercial-in-confidence. It is therefore not possible to address fully the terms of reference of the Public Accounts Committee's inquiry. This union has cause to believe that the specification development and procurement process was predicated on the basis that hospital functions would be privatised and not operated in-house by WA Health. Without public disclosure and scrutiny there are valid concerns that the business case analysis and public sector comparator processes were not sufficiently robust in ensuring that the best case was put forward for WA Health to retain all hospital functions in-house.

3.2. Alarming, WA Health does not have a good track record in developing business cases. In the Western Australian Auditor-General's *Fiona Stanley Hospital Project Report 5 – June 2010* it was noted that:

The project business case and other key planning documents had significant gaps which required additional time and resources to fix. Oversight was hampered by a lack of full and timely information^{vii}.

3.3. Similarly, in the Auditor-General's *ICT Procurement in Health and Training Report 9 – October 2010* he noted that:

Health has been consistently unable to provide a business case that Government considered suitable, in order to enable access to funding for implementation of its new PAS (Patient Administration System).^{viii}

3.4. Liberal Governments have a history of failing to apply rigorous value for money assessments and in determining the competency, integrity and experience of private operators when granting health contracts in WA. Even as far back as 1997 the Office of the Auditor General was critical of the Government's decision to involve the private sector in the development of Joondalup Health Campus (JHC). The Auditor-General noted that the Department's submissions setting out the case for proceeding with the project did not include comprehensive evaluations of the benefits, costs and risks involved. ix

3.5. The awarding of the facilities management contract to Serco was announced in July 2010 with an anticipated execution date of November 2010. In November 2010 Mr Bradley Sebbes, Executive Director Fiona Stanley Hospital, swore by affidavit^x that any delays in having Serco's input into the design and construction of the hospital beyond January 2011 would have significant financial costs for the project. Contract negotiations went well beyond the critical date nominated by Mr Sebbes and the contract was not executed until July 2011. It is respectfully suggested that the causes of the protracted negotiations need to be explored thoroughly by the Committee.

- 3.6. Of particular concern to United Voice is the longer term impact that privatisation has on the working conditions of low paid workers. The privatisation of the Peel and Joondalup Health Campuses has seen significant profits accruing to the operators from the provision of public health services concurrent with the significant erosion of workers' wages and other working conditions. These are workers who were previously employed by WA Health at the Mandurah and Wanneroo Hospitals. (Appendix 22 compares current pay rates between Peel Health Campus and WA Health). In framing the public sector comparator the competitive advantages that accrue to government are eliminated but differences in the cost levels between public and private sector service delivery are not explored and adjusted to take account of qualitative and ethical differences. United Voice's experience is that government can deliver hospital services of a higher or equal standard as cost effectively as the private sector. The savings that are theoretically delivered through privatisation are upon analysis found to be delivered directly through aggressive reductions in fair and equitable remuneration of the workforce. This issue was raised by United Voice and assurances were received that the contract would contain a parity clause to ensure workers employed by Serco will receive the same conditions and remuneration as those employed by WA Health. This is not true. In 2005, Serco, which manages some services at the Norfolk and Norwich Hospital, attempted to force workers on to substandard pay and conditions, which did not match the NHS rates. Serco claimed they couldn't afford to pay the increase unless the NHS Trust increased the price of the contract. This was despite Serco making a £4.1 million profit on the contract.^{xi}
- 3.7. United Voice recommends that the Committee fully explore the impact that privatising services has on workers' conditions and remuneration.

4. Risk management planning undertaken

- 4.1. The Government has not released for public scrutiny and analysis any details of the risk management planning undertaken.
- 4.2. Fiona Stanley Hospital is reputed to be the largest, or at least the most expensive at a cost of \$1.76 billion (and rising), infrastructure program undertaken by the WA Government. WA Health has a proven track record over a very long period of time of efficiently and effectively operating a variety of hospitals, from small country nursing stations to large tertiary hospitals. Unfortunately for WA's taxpayers its history of attempts to privatise hospital services, and in contract management, is littered with costly disasters. Regardless of the Government's spin about transferring risk to the private operator it is the taxpayers who will ultimately bear the cost if Serco fails to perform. The State is not in a position to let FSH fail.
- 4.3. By contracting a large foreign owned company to run such a large part of FSH the WA health system is exposed to the uncertainties of the global financial system in a way that would not exist if FSH was operated by WA Health.
- 4.4. The International Monetary Fund's September 2011 World Economic Outlook warned that the global economy has entered a dangerous new phase in which global activity has weakened and become more unbalanced. Downside risks are also intensifying. The report cautioned that global fiscal risks remain very high, particularly in regions like the Euro area, the United States and Japan. This echoed the Bank of International Settlements' warning in June 2011 that the scene is set for a new international global crisis. In October 2010 the British Government announced the largest cuts in public spending since World War II in a bid to bring its huge debt burden under control.
- 4.5. It is within this global financial environment that the Government has exposed the public of Western Australia to the ever present risk of corporate failure and the adverse impact this will have on the operation of the hospital should the private operator fail. Large companies do fail; Enron, Lehmann Bros, HIH Insurance, American Airlines, General Motors, Chrysler Motors, and ABC Learning Centres are just a few of the many recent corporate failures. Serco is a global company operating in high financial risk areas including USA, UK, the Euro zone and the Middle East. Serco Australia Pty Ltd is a wholly owned subsidiary of Serco Group plc, a foreign company. The Government has no control over how and by whom the parent company is managed. Serco's corporate and ethical ethos, its governance policies, its preparedness to enter into risky or dubious investments, and its financial management and risk profile are completely outside of the Government's control. This risk factor should have been quantified and factored into the procurement plan and public sector comparator but (again) it is impossible to determine what weighting if any that the Government placed on this tangible risk. In any event it is a completely unnecessary risk given that WA Health could have operated all services at FSH.

- 4.6. The risk is increased because the FSH contract is essentially a sub-contracting arrangement where most of the services to be provided will be sub-contracted out by Serco (which is effectively a head or prime contractor of WA Health). The contract is significantly bigger and more complex than previous sub-contracting arrangements entered into by WA Health. The contract is for the provision of 27 services plus the management and integration role expected of Serco.
- 4.7. There is a significant risk to the Government that Serco will sub-contract out most of the 27 services to a variety of sub-contractors. The point made above about the Government carrying the risk of corporate failure is further multiplied each time a sub-contractor is engaged by Serco to perform essential services at Fiona Stanley Hospital. These sub-contractors are further removed from the government's control, including how and by whom they are managed, their financial risk profile, workforce management policies etc.
- 4.8. Of critical importance to the establishment of FSH is the information and communication technology. The hospital is intended to be at the cutting edge of current ICT technology and is vaunted to be WA Health's first 'digital' hospital. Serco doesn't have the experience and expertise to deliver the ICT component. It appears from an examination of the contract that in putting together its bid Serco had to co-opt BT Australasia Pty Ltd to provide the necessary ICT expertise. Likewise, Serco didn't have the expertise to provide managed equipment services and co-opted Siemens to provide this expertise. This raises the question of what are the benefits to the taxpayers of imposing a middleman (Serco) between WA Health and the firms that are actually delivering the ICT and equipment services expertise.
- 4.9. The ability of Serco to appropriately manage its sub-contractors has been questioned. Serco is a listed public company where maximising profit and the return to shareholders is paramount. Serco's true ethos and profit making intentions can be seen in its recent attempt to squeeze its sub-contractors' profit margins in the UK. In response to the UK Government's austerity measures Serco's Finance Director put the following to Serco's major sub-contractors:

I am asking you to offer us a rebate of 2.5% (exclusive of VAT) on Serco's full-year spend with you for the 2010 calendar year in the form of a credit note. Like the Government, we are looking to determine who our real partners are that we can rely upon. Your response will no doubt indicate your commitment to our partnership but will also be something I will seriously consider in our working relationship as Serco continues to grow.^{xii}

- 4.10. This was a blatant attempt to intimidate the sub-contractors to reduce their profit margins for Serco's advantage and, if successful, would have affected the sub-contractors' financial ability to satisfy their contractual obligations. This attempt to squeeze its sub-contractors resulted in the UK government intervening to get Serco to withdraw its demand.

- 4.11. It is worth noting here that an examination of the parent company's latest annual report shows that 66% of the CEO's and 61% of the Finance Director's remuneration are performance based. It is respectfully suggested that the Committee may wish to pursue a line of questioning about whether the remuneration packages of the senior executives of Serco Australia Pty Ltd, and in particular those responsible for the administration of the FSH contract, include performance based incentives.
- 4.12. Since taking over the immigration detention centre contract in 2009 [where United Voice also represents the staff], Serco has been plagued with a litany of problems and controversies, including deaths in custody, self-harm, hunger strikes, riots and escapes. These problems have in part been caused by the widespread use of subcontractors, which has led to the erosion of service standards and reduced transparency and accountability. Centres are understaffed and labour turnover is dramatically high. Some workers have been encouraged not to report incidents. Training is limited and staff is not given appropriate support or counselling to deal with suicides. These problems are documented in United Voice's submission to a recent Senate inquiry [included as Appendix 20 to this report]. The problems were also documented in a 2011 Comcare report that was damning of Serco's performance. It is included as Appendix 21 to this report.
- 4.13. Serco's poor reputation as the operator of other services also puts at risk the reputation of the WA Health. Bad news about Serco will adversely affect the public's confidence in the overall performance of FSH.
- 4.14. Serco has a disturbing record of deaths in custody, including a 14-year-old boy [the youngest ever death in custody in the UK], Adam Rickwood, who hung himself in a Serco-run youth detention centre in Britain after he was assaulted by guards. Rickwood had refused to go to his locked cell, so in order to force him to submit to their orders, the guards performed a "nose distraction technique", which made his nose swell and bleed for hours, as part of a "pain compliance technique" used to restrain the behaviour of child inmates. In 2008, at another Serco jail, a prisoner died of meningitis despite repeated pleas for medical assistance.^{xiii}
- 4.15. Following the tragic suicide of an asylum seeker at Villawood Detention Centre in 2010, Crikey undertook an investigation into Serco and found disturbing evidence of the erosion of service standards through subcontracting. The immigration tender process allows companies to outsource to subcontractors, limiting the abilities of DIAC to scrutinise the fulfilment of their contracts.^{xiv}
- 4.16. A 7.30 Report investigation in April this year into Serco's management of immigration detention centres revealed widespread staffing and management issues, including:
- "Profound" understaffing at the Christmas Island IDC (typically 15 staff short a day, despite the centre running 1,000 detainees above capacity).
 - "Dramatically high" labour turnover (new staff present in all centres visited).

- Workers are being encouraged not to report incidents (such as increasing levels of self-harm and protests), despite being obligated to under DIAC policy, and are threatened with dismissal if they do.
- The *Human Rights Commission* reports that the mandatory six week induction courses are not being provided to employees consistently.
- Psychological support training is often not being provided (it was reported in one centre that not even one staff member had been provided with the training).
- Counselling is often not provided to security officers (e.g. following night shifts where incidents of 'cut-downs' have occurred, where detainees have tried to hang themselves).
- Widespread subcontracting breaches, including a raid in Darwin that revealed 30 unlicensed guards working for MSS (including foreign students and workers without the necessary clearances for working with children).
- High turnover amongst management staff (5 centre managers since September 2009 on Christmas Island, with one recent manager from the UK lasting only a few weeks).^{xv}

4.17. The contract deals with the use and ownership of intellectual property. It is acknowledged in the contract that there is a lot of intellectual property which either:

- belonged to Serco prior to the contract;
- is licensed to Serco by a third party; or
- will be created during the course of the contract.

4.18. Most intellectual property will probably be created during the course of the contract period specifically for the purpose of operating FSH. Under the terms of the contract this intellectual property will be owned by Serco even though it is contracted to operate FSH for the benefit of the State. If WA Health were to operate FSH in-house then it would either hold the licences to other parties' intellectual property in its own right, or own outright any intellectual property created through the operation of the hospital. Allowing Serco to either control the licences to intellectual property or to own the intellectual property created during the course of the contract is a legal minefield that could have been avoided. The contractual arrangement entered into has the potential to place the State at financial and operational risk in the event that the contract is terminated or not renewed. Indeed this is acknowledged by the parties to the agreement in clause 33.2(a), where it states:

The parties acknowledge that the transaction described in this Contract is very complex, is intended to operate over a long period, and involves a lot of Intellectual Property, in many manifestations. As a consequence, it is inevitably difficult for the parties to come to fixed legal arrangements in advance as to ownership, rights and obligations of Intellectual Property that will have certainty over the Term, and over the life of the Intellectual Property.

4.19. United Voice recommends that the Committee thoroughly examines the issues and risks associated with the ownership and use of the intellectual property.

- 4.20. The Government could have chosen the risk adverse option and had its newest tertiary hospital run directly by WA Health, a model that is tried, understood and enjoys a high level of public confidence. Instead, at a time when the global risk of corporate failure is high, it has awarded a contract which in scope has no precedent in Australia [and possibly the world] to a foreign controlled company that has acknowledged that it has never before done anything of this scale. Given this, and that this private operator is not a stranger to controversy, the State Government has chosen a high risk option to the point of recklessness.

5. Compliance management arrangements for the contract

- 5.1. The Government has not released details of the compliance management analysis undertaken for public scrutiny.
- 5.2. Compliance management poses a significant risk to WA Health, especially given its appalling track record in contract management. This was noted by the Western Australian Auditor-General:

It (WA Health) could not accurately acquit moneys spent on eHealthWA program up to 2008, including PAS. It also inadequately monitored contract delivery and performance. It did not ensure that the necessary managers had good knowledge of and access to contracts. Some contracts lacked performance criteria. Where there were criteria, Health did not adequately monitor performance against them.^{xvi}

- 5.3. To address this WA Health has just issued a tender (HCNS231011)^{xvii} for the “provision of professional services to assist in the effective administration, monitoring and management of pre-operational and transition plans for the establishment of contracted facilities management services at the FSH”. A reading of the tender document indicates that the implementation of the ICT and equipment services components is of particular concern. In short, WA Health will be engaging and managing a contractor engaged to manage the facilities manager [Serco], who in turn is contracted to manage the sub-contractors, including the ICT and equipment services sub-contractors. The question has to be asked as to how it serves the taxpayers’ interests for WA Health to depart from its proven capabilities of directly managing hospitals into a new world of contract management where the operation of FSH is at the end of a long line of contract and sub contract arrangements.
- 5.4. Furthermore the tender, which only closed on 8 September 2011, calls for the successful tender to *assist with the recruitment and selection of a team of Health professionals to be employed by SMAHS during the contract term that will ultimately be responsible for the ongoing professional management of the contracted service obligations of the Facilities Manager*. Again the point has to be stressed that the contract is complex and relies significantly on Serco’s data control system and the accuracy of the entries made into the Help Desk system. United Voice finds it alarming that WA Health entered into a complex contract which requires a significant degree of oversight to ensure compliance prior to having the necessary expertise to manage Serco’s contractual obligations.
- 5.5. The FSH contract is complex with payments to Serco calculated on a combination of availability, performance to pre-determined standards, and usage. The contract provides for incentives and abatements. In ensuring that all items are correctly invoiced or abated significant reliance is placed on Serco’s data control system and the accuracy of the entries made into the Help Desk system. For example, availability failures are defined in Schedule 2 of the contract. This schedule of 59 pages defines the hospital by room number and name and assigns a failure point for each area, including corridors, cupboards etc. The question

needs to be asked about what processes will be in place to ensure that availability failures will be effectively monitored and reported correctly.

- 5.6. In a recent ABC News report concerning the management of the Christmas Island detention centre it was alleged by a former Serco employee that:

"...a range of contractual obligations were not being met on Christmas Island but that DIAC was unaware.

"The wastage of money and lack of accountability was concerning.[Serco] staff could put down extra hours and they wouldn't even know where staff were - people claiming wages and they weren't even on the island," the former employee said.^{xviii}

- 5.7. In another reference to the mismanagement of the Christmas Island detention centre a former Serco manager stated: *"You wouldn't have to be too clever to find a whole host of financial and human resource mismanagement, it would be plain to see,"^{ixix}*

- 5.8. Of particular concern is WA Health's ability to manage companies whose rationale is to maximise profits. Serco is a member of the Octagon Healthcare consortium which financed and built the Norfolk and Norwich Hospital. Serco also has the facilities management contract for that hospital. In 2006 the House of Commons Public Accounts Committee reported on the refinancing of the project by the Octagon Healthcare consortium. The Committee found that the consortium had geared up the project's borrowing by £106m in a bid to make significant refinancing gains and in the process *bamboozled inexperienced executives at the local National Health Service Trust^{xx}*. Edward Leigh, the Chairman of the Committee, said:

The refinancing of the Norfolk and Norwich project lined the pockets of the investors in Octagon. This was a poor deal in which the NHS Trust might now have to pay £257m if its needs to terminate the contracts early. This is taxpayers' money and the risk of this large liability was incurred essentially so that investors could have fatter returns. We believe this to be the unacceptable face of capitalism, with such a face shown by this private sector consortium in its dealings with the public sector.

- 5.9. Serco may acknowledge that they have no experience in delivering a contract of the size and scope of the FSH contract but they are global experts at extracting significant profits from government contracts. From the moment the contract was signed [and probably before] Serco would have had a team of lawyers and accountants with worldwide experience examining the contract to ensure that Serco's profit is maximised.
- 5.10. On the public sector side there is an under resourced and less experienced contract compliance team who will be managing a contract of this size and complexity for the first time. If any of the public sector team actually turns out to be any good at what they do they will probably be offered a job by Serco with substantially higher remuneration. Draining your public sector client of its best staff is a clear strategy of these companies. Some public

servants could be excused for seeing every meeting with a corporate giant as a job interview.

- 5.11. Assurances from the State Government that contract compliance will be rigorous must be taken as good intentions at best. How much was the private provider fined when the Orderly contract at SCGH was a failure? How much was the cleaning contractor fined when there was a VRE outbreak at RPH? In our experience when things go wrong the contractor usually gets paid more not less, as was the case with P&O and the SCGH orderly contract.
- 5.12. There is huge institutional reluctance by the public service to acknowledge failures by the private provider because it is an admission that the original decision to privatise may have been flawed. When it does happen the client often keeps it away from public scrutiny. For example, Serco's failures in the Detention Centres are treated as commercially in confidence. We believe Serco has paid substantial fines but none of that is publically available.

6. Objectives, including service quality and value for money, and the extent to which the contract as signed is likely to meet those objectives.

- 6.1. The Government has never stated publically what its objectives were when it decided to privatise services at FSH. Nor has it released the business case, public sector comparator or any detailed financial modelling so it is not possible to comment on whether the contract achieves its objectives. Again, it is recommended that the Committee obtains and releases the business case, public sector comparator and all the relevant financial data that quantifies the expected financial outcomes for public scrutiny.
- 6.2. The Government has stated that the contract is valued at \$4.3 billion over a 20 year term. Schedule 7 of the contract pages sets out in detail the processes required to calculate monthly payment to Serco. This schedule is 90 pages, of which 40 are devoted to definitions. To calculate the monthly payment is complex, requiring numerous sub-calculations of fixed and variable items, abatements, and incentives. For example, the monthly service charge consists of the sum of 14 fixed service payments, 7 variable service charges, three management service payments, 3 revenue service components, monthly service abatements, monthly abatement credits, an incentivisation payment and a variation payment. Within each of these components there are numerous sub-calculations based upon various criteria. Appendix 23 is a brief summary of the components that make up the monthly payment together with detailed examples of the calculation of two sub-items, the patient catering service payment and the sterilisation service payment. These highlight the complexity of the data required to make the calculations.
- 6.3. The Minister for Health, in announcing the awarding of the contract to Serco on 30 July 2010, stated that the State will save \$500m over the life of the contract. Relative to the size of the contract (\$4.3 billion) the projected annual savings of \$25 million over 20 years, or even \$50 million if the savings are calculated over 10 years, represent slim margins that leave little room for error or cost blow-outs and could easily be lost over the life of the contract. When considered in conjunction with the long term cost to the State of WA Health losing control over all aspects of the operation of its flagship hospital and the concomitant lose of its in-house expertise the amount of projected savings are marginal. In any event, given the length of the contract period any projected savings to the State can be best described as no more than an educated guess.
- 6.4. As early as 1997 the Auditor-General recognised that savings theoretically identified in the procurement process and used to justify the privatisation of public health services do not, in fact, eventuate. In relation to the privatised Joondalup Health Campus he said:

The net tangible benefits of the contract to the State relative to the public sector alternative are indeterminable. In terms of both services and the availability of the facilities, there is not reliable information to establish that the contract provides net tangible benefits to the State.^{xxi}

6.5. The contract specifies outcomes, not inputs, so minimum staffing levels have not been specified in the contract. This is of particular concern because the standard of services provided is dependent upon the quantum of staffing levels. Serco has been found wanting in the standard of cleaning in one of the hospitals it manages in the UK. A Healthcare Environment Inspectorate announced inspection of the Wishaw General Hospital in September 2010 found that 6 out of 8 wards failed hygiene standards including;

- failure to provide adequate cleaning staff, despite repeated requests from ward managers;
- failure to provide hand washing facilities;
- no inspection of mattresses for staining and contamination; and
- unsatisfactory standards of cleanliness observed by the inspection team.

6.6. United Voice believes that the functions of a hospital, particularly a major tertiary hospital of the scale and complexity of Fiona Stanley Hospital, cannot be artificially separated and privatised as independently functioning units. Previous attempts to privatise segments of hospitals' services, such as cleaning at RPH and orderly services at SCGH, have had disastrous results, both in terms of health outcomes and financially.

6.7. A journal article from *Industrial and Corporate Change*, Volume 13 No 6 examined the problems associated with contracting out labour-intensive government services. It examined in detail the contracting out in 1995 of the orderly service at Sir Charles Gardiner Hospital (SCGH). Below is an extract from the article:

Higher than anticipated transaction costs and production costs were experienced by the hospital and there were negative impacts on service quality and other parties (e.g. nurses). In contrast, when the service was returned to in-house delivery, transaction costs and production costs were lower than could have been achieved by contracting out the service. Hospital management and staff also considered the in-house service to be of higher quality than the orderly service it replaced. Customer satisfaction improved distinctly.....^{xxii}

6.8. Speaking of the privatisation of SCGH's orderlies a member recalls:

"There was no doubt patient care was compromised because patients were left in x-ray or bay areas for long periods before they got transported back to their ward. This could mean a patient would be sitting in a wheelchair or bed for sometimes up to two hours.

Some sick patients had to be escorted because of their condition by a nurse— this impacted on nursing ratios for the patients left on the ward that had to be looked after. Because of the change in orderly services no orderlies were on the ward to help with the shortfall of nurses as we previously would have done. Some nurses would be away from the ward for lengthy periods of time."

Geoff Cardinal – Sir Charles Gardiner Hospital

- 6.9. It cost the State \$2.7 million in enhanced infection controls to contain a VRE outbreak that directly resulted from the privatisation of cleaning services at RPH. A union member said of the privatisation of cleaners at RPH:

I can without a doubt say that I was often not happy with the work I was doing because I knew that it was not being done correctly, it was not being done correctly because you are literally running to compete duties, bare minimum staffing resources were being utilised to try and keep up with the task of cleaning a hospital, and a facade was being painted on the outside that all was well when really areas were going without being cleaned for days at a time, people who are sick of not being covered and due to this being asked to do 2 areas and "just skip it over tonight" featured quite prevalently and ultimately at the end of 2001 these practices and the use of Patient Care Assistants to do ward cleaning as well as patient care assisting as there were no dedicated ward cleaners at the time, culminated and led to the VRE outbreak of 2001.

Brodie Clayton – RPH

- 6.10. As noted earlier the Minister for Health has acknowledged that previous attempts to sub-contract services, such as cleaning at RPH, resulted in sub-standard work and infection outbreaks.

- 6.11. The Government has shrouded in secrecy the entire process that has resulted in the awarding of the contract to Serco. This ought to be of concern to all citizens. As has been noted by Infrastructure Australia:

Accountability of the executive government to the legislature, and freedom of information for citizens, are key principles of the Westminster system of government operating in the Commonwealth, State and Territory jurisdictions. As a general principle, this requirement for visibility and accountability means that full disclosure should be the default position for a PPP contract with the private sector^{xxiii}

- 6.12. The process to date has fallen far short of this statement of principle and, if the lack of public accountability demonstrated in the operations of the Joondalup and Peel Health Campuses is any measure, then it will continue to be so throughout the life of this contract. As noted earlier this is the most expensive project ever undertaken by the State Government. Whereas WA Health is subject to all of the taxpaying public's safeguards such as Freedom of Information legislation, Auditor-General's scrutiny, the requirements of the Public Sector Management Act and other mechanisms of public sector compliance, Serco will not be subject to these fundamental safeguards. Furthermore, Serco is well known to maintain tight control over the flow of information to its advantage with reports that Serco employees are required to sign rigorous confidentiality agreements to silence them, even when speaking out would be in the public interest (which of course Serco will neither confirm nor deny). This is unlike public sector employees who are protected by whistleblower legislation.

7. Conclusion

- 7.1. United Voice is a key stakeholder in the provision of public hospital services in Western Australia. Our long-standing interest and experience have informed us about the ill-effects of privatising public hospital services. It is thus with a great deal of concern that we have witnessed the privatisation of essential services at Fiona Stanley Hospital, which has been done in a secretive manner without adequate public scrutiny and input. United Voice commends the Legislative Assembly's Public Accounts Committee's holding of the Government to account through its inquiry into the awarding of the FSH contract.

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APPENDICES LIST

Appendix 1 - Barnett, Colin - Speech to Western Australian Council of Social Services Conference opening. 13 May, 2010

Appendix 2 - Hansard, Legislative Assembly, WA Parliament 17 November 2010, p9015b-9032c.

Appendix 3 – Industrial and Corporate Change, Volume 13, Number 6, pp917-929 “Problems with contracting out government services: lessons from the orderly services at SCGH

Appendix 4 - Email from J Francis to J Day Date: Wed, 9 Jun 2010 22:08:31 +0800

Appendix 5 - Serco press release dated 19 October 2010

Appendix 6 - “Serco Australia to run support services at Fiona Stanley Hospital,” Hon K Hames MLA, Ministerial Media Statement. 30 July 2010.

Appendix 7 – Report No 5 June 2010 Office of the Auditor General WA “Performance Examination Fiona Stanley Project”

Appendix 8 - Western Australian Auditor-General’s *ICT Procurement in Health and Training Report 9 – October 2010*

Appendix 9 - Report No 9 November 1997 Office of the Auditor General WA “Performance Examination of JHC – Private Care for Public Patients”

Appendix 10 – Sworn Affidavit of Mr Bradley Sebbes – dated 29 November 2010

Appendix 11 – UNISON factsheet – April 2005 “Strike Ballot Produces offer at Norfolk and Norwich”

Appendix 12 – BBC News 1 November 2010 “Serco cancels plans to seek rebates from its suppliers”

Appendix 13 – Tom Arup, “Detention company set to be dropped”, *The Age* , 3 April 2009

Appendix 14 – Paul Farrell and Anthony Loewenstein, “Serco’s paper trailer raises accountability questions”, *Crikey*, 1 November 2010

Appendix 15 – ABC 7.30 report transcript, Leigh Sales “Detention centres under spotlight” broadcast 18th April 2011, reporter Heather Ewart

Appendix 16 – Tender document HCNS 231011 “Professional Facilities Management Contract Services for the Fiona Stanley Hospital”

Appendix 17 - Government accused of hushing up detention breaches, Nikki Tugwell, ABC News Online Investigative Unit 21 July 2011

Appendix 18 - Barclays in NHS rip-off scandal, This is Money 3 May 2006.

Appendix 19 - National Public Private Guidelines Volume 2: Practitioners Guide. Australian Government Infrastructure Australia

Appendix 20- Investigation Report. Investigation Number: EVE00205473. Australian Government. Comcare.

Appendix 21 – United Voice’s Submission to Joint Select Committee into Australia’s Immigration Detention Network.

Appendix 22 – Difference between current weekly pay rates paid by Peel Health Campus and WA Health.

Appendix 23 - A Summary of the items that are included in the monthly payments by the Principal.