



SPARK AND CANNON

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THE HONOURABLE RICHARD CHESTERMAN AO RFD QC, Commissioner

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IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No. 1) 2012

QUEENSLAND HEALTH PAYROLL SYSTEM COMMISSION OF INQUIRY

BRISBANE

..DATE 12/04/2013

Continued from 11/04/13

DAY 15

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complaints in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

BURNS, TERENCE ERROL called:

COMMISSIONER: Mr Doyle.

MR DOYLE: Thank you. Mr Burns, can you please go to volume 33?---33?

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33. Do you have it? It's at page 424?---Mine seems to only go to 152. Are there two volumes?

I see. All right. Well, can you go to the next part of it, please, 33-2, I assume?---424?

Yes. Now, I want to take you to the email at the bottom of the page, which is an email from Mr Bloomfield to his superior, I'll ask you to assume, at IBM. So it's not to you but I want to ask you some things about it because it talks about a meeting he's had with you?---Yes.

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I know you've been taken to this before but I want you to read, if you would, to yourself, the second paragraph, that's the one commencing, "However"?---Yes.

Now, at the time of this email, there was a - there had been dealings with a view to IBM taking on a role as PMO, which the following day they were told they were unsuccessful again?---Correct.

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But in the course of this meeting, is it right to say, or do you recall, that you expressed your increased frustration relating to the lack of fresh thinking about the approach to the scope solution review currently under way with the newly solution design authority?---I believe I did.

It is right to say that at that time you had frustration with the lack of fresh thinking, et cetera?---Yes.

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And the newly established solution design authority was something that you had identified as a key element in advancing the shared - sorry, the SSI program in an effective way?---Yes.

And it is right to say, and we touched on this yesterday, that an aspect of why you saw it was important was that it would enable a regime to exist by which the requirements of the various departments and agencies could be identified at the outset and the design of the solution undertaken in light of those requirements?---Exactly.

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Tell me if you need to be reminded of it, but ultimately IBM submitted in response to the ITO a proposal, which - a scope of forward planning. Do you recall that?---In general terms, Mr Doyle.

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Well, let me try it differently. The role that you contemplated the SDA would have would be one which would ensure there was, to a greater extent than had been in the past, identification of the requirements of the authorities and planning to meet them at the outset, which can be described as managing forward planning?---Yes.

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Thank you. And the frustration that you had was because that was not a theme, if you like, that you had seen emerge from anything that had been said to you from Accenture or Logica, or SAP, or perhaps other vendors?---Yes.

But you nonetheless saw it as a critically important way forward, if this program was to progress cheaply and more efficiently?---I believed it was essential.

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Thank you. Now, down the page, back to this email, the passage commencing, "Justin did some whiteboarding," to which Mr Flanagan took you yesterday. Do you recall that? ---Yes.

Now, I'm not going to ask about the whiteboard because it's the case you can't remember the occurrence or what he wrote?---No, I can't.

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And then it says that you said that you asked IBM to pitch its views to the SDA. Can you recall doing that?---Not specifically but it's quite probable.

Well, if in the course of putting something on a whiteboard or otherwise, someone had come up with a good idea, you would have encouraged them to bring it forward to people who could consider it?---Yes.

All right. So it's likely that you said something to that effect, in any event?---Yes, it is.

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And can you recall if they said that IBM would be happy to invest some time over the next couple of weeks to prepare that pitch? Perhaps you can't remember it?---Not specifically, I'm afraid.

But it's consistent with what we talked about yesterday, there would be a need for a supplier to invest time and effort in assembling something to present it to you - - -? ---Yes.

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- - - as the way forward. And can you recall being asked, you know, "What's in it for us," or words to that effect? ---I'm afraid I can't recall that point.

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All right. Now, the next sentence, "Terry obviously can't absolutely guarantee," I think was put to you as if it were your words. Now, I want you to read the sentence. It's Mr Bloomfield reporting to his superior that you can't absolutely guarantee a large involvement. "However, he," that is you, "laboured the fact that Accenture and SAP had nothing new," or have nothing new. Now, you can certainly recall expressing the view or at least having the view that Accenture and SAP had not produced anything new?---Yes.

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And to advance the program, your desire was to identify something new?---Yes.

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And to encourage someone who might have the ideas to put the effort into advancing it?---That's correct.

And if it was a good idea, that person would stand a chance of being engaged to pursue that good idea?---Certainly.

Thank you. Now, so would it be right to say, as best you can recall it, Mr Burns, that at that stage you were still encouraging IBM to put in the time and effort to think about and produce something?---Certainly.

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Which you hoped would be a good thing?---Yes.

The next day, an email was sent telling IBM it didn't get the PMO contract. Do you recall?---I believe so, yes.

I'm asking - - -?---I've seen the document.

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Thank you. And the same day, there was an email sent out to various people inviting them to a supplier's briefing?---Correct.

Which you provided (indistinct)?---(indistinct).

Thank you. Would you go now, please, to volume 28. Perhaps you don't need to do it for these purposes. You were taken yesterday to the PowerPoint presentation of that supplier briefing?---Yes.

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And you recall it had a page that had a series of work groups identified?---Yes.

And your name was identified as against a number of those crews?---Yes.

I think two or three of them?---Correct.

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In the course of the supplier briefing, do you recall if you told the suppliers that if they wanted more information about what CorpTech had or what it was expecting, they should ask for it?---I'm sure that would have been assumption if it was not expressly stated.

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Well, I was going to ask, do you recall if you said words to the effect that they could approach you if they wanted any more information?--Certainly, and it had been an ongoing assumption all through the process. 1

Very good. I won't trouble you to go to that then for these purposes. Do you recall that there were some kind of responses by the various suppliers in presentations around 13 July?---You mean that further presentations occurred? 10

Yes. By them, though?---I would - I've got a general recollection that it was quite actively engaged with presentations and materials coming back to us.

All right?---I'm afraid it's a very general recollection.

That'll do for these purposes. And both before and after 13 July, you had received requests for information from various suppliers and that is you or CorpTech had responded to those requests?---Yes, I believe so. 20

Sometimes completely and sometimes incompletely?---Yes. They weren't always satisfied with what they got.

Right. Thank you. Now, between the - or shortly after the supplier briefing, do you recall an approach being made to you by Mr Duke to this effect, that some or all of the suppliers would wish to put forward a joint proposal to CorpTech, or considering putting forward a joint proposal to CorpTech?---I do have a recollection of that topic. 30

And do you recall it being an approach by Mr Duke?---I believe I do. I wouldn't be exactly clear on detail.

Well, does your recollection extend to recalling that it was only Mr Duke who came to see you and raised with you the possibility of a concept, at least, of an approach on behalf of a number of suppliers rather than individual suppliers?---I would have some difficulty putting an exact time scale and a precise meeting, but I do have a very good recollection of that motivation coming forward, no. 40

Could Mr Burns be shown exhibit 41, please. I'm showing you an email dated 10 July 07 from Mr - well, it's from "Mike" but it's Mr Duke to a variety of other people, not you, but it records, "We are down to see Terry at 12.30 today at his office in Santos House"?---I'm just not sure I've got the right email given to me here.

Sorry?---Is it the 10th? 50

Sorry. Thank you. It's headed Folks, isn't it?---Yes.

I did discuss our concept with him. He was considered in his response regarding his view on our collective approach. He said, "They would be disappointed if Treasury did not also receive the individual responses back to their request."

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Now, does that prompt your recollection?---Yes, it does.

So you did meet Mr Duke. He said something about a collective or a joint approach and you expressed that it would be important to receive individual responses?---As we had originally anticipated.

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Correct. And indeed, one of your motivations generally was to ensure there was a competitive environment rather than one which there was perversion of more comfortable ways in the past. Would that be right?---Yes.

Thank you. Now, following on from that period, and I'll go to the detail if we need to, you sent out an email on 25 July which invited - starts by asking people if they would be prepared to act as prime contractor?---Yes.

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Do you remember that email? Do you recall it?---Yes, I do.

When was it prepared? It goes out on 25 July?---I do recall that a draft was reviewed with Maree Blakeney and I believe Ms Perrott would probably have looked at it as well before it went out, so it would have basically gone through an approval process, so I'm guessing a couple of days in prep or a day or two.

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Well, it goes out to people at different times but I think one goes out a little after 10 o'clock on the 25th, so it can be assumed the 23rd or maybe slightly earlier than that was embarking upon the draft?---That would be my expectation.

Okay. Thank you. I'll get you to go to that email, please. It's in volume 28?---Do you have the page?

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I'm sorry, yes, 548. Now, this was the one that's sent to IBM, the identical one was sent to everyone. That's so, isn't it?---Yes.

And it says - identical except for the identity of the recipients. "The key information we're looking for on the form of affirmed proposal is," and then the first thing is the company, prepared to enter into a prime contractor role across the whole program, and in part the reason you've asked that is because the various suppliers who had been giving you ideas and so on had not adopted a uniform approach to their response as to whether they were prepared to do so across the whole of the program?---Yes.

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Is that so?---Yes.

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Then you ask a series of other questions, but the one I want to direct your attention to is: following on from your conceptual approach presented recently, could you now provide the cost ranges and time scale ranges to complete the scope as to find a newer approach. Now, pausing there, that would be different for each of the vendors, each of the suppliers?---Yes, I would assume that.

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And so that the cost ranges and time scales for their approach would not - if their approach was different, it wouldn't deliver to the recipient, that is CorpTech, the same outcome because each of them has pursued a different approach?---Correct.

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"We understand that these are price ranges only," so that you're asking for something broad and indicative. Is that so?---Yes.

You're anxious to use these costings to determine who we move forward with into detailed negotiations on any of the identified engagement options so that it was plain you intended to use whatever was given to you in response to this to undertake some internal assessments to decide which, if any, of the various options you'd pursue and then to at least negotiate with a number of people about them? ---Correct.

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You asked some other things, but I won't take you to them. And then it says, "The process that we wish to follow from here on is to collate these proposals from all interested suppliers by 7 August." So you were giving them eight days - is that right - or perhaps a little longer?---Yes.

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Not much time anyway?---Not a lot.

No. An inadequate period - I'll come back to that. You were giving them that period and no more. And we suggest that you may wish to make the presentation of the senior management group before this date, so that, can I take it, the senior management group could understand what was being sent to them?---Correct.

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And then you say, "It's our intention to begin the detailed processes leading to further engagements by 15 August." So, again, Mr Burns, it's right to say that you would begin on 15 August some more detailed process?---Yes.

So that it was always intended to be two stages or two steps rather than one?---Yes.

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Thank you. At that stage - sorry, I'll jump ahead. You're familiar with the ITO itself?---Yes.

It's a comprehensive document as we'll see in a little while with tens of thousands of pages of data provided in support of it?---Yes.

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And it's that kind of document which, in your experience, would be necessary to elicit a tender for a job as prime contractor for a roll-out as complex as or detailed and as complex as the whole of government roll-out for Queensland?
---Correct.

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COMMISSIONER: Mr Burns, you might solve a problem or at least a puzzle, why was the ITO time response time so short? It went out in the course of September, and issued responses are due by 1 October; that was extended to the 8th. That's less than a month to respond to, as Mr Doyle describes rightly as, a hugely complex document. Why was it so short?---Fundamentally, Mr Commissioner, of course, we were all treating that concern partly around the cost burden and there was also the view that we needed to consider the vendor's position, that contractual positions may change, and that a period of uncertainty should be kept as short as possible, but in the end we were given a time line by, I think, procurement and the (indistinct) people on what was a norm or an accepted process within the public sector.

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Do you know who actually chose the time frame?---I'm afraid I don't, but I would assume it would have a lot to do with Maree Blakeney in procurement and there was a Treasury legal person involved and, I guess, consultations - - -

Was that Mr Stone or Millman?---I seem to remember - was it Kevin Millman?

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Yes?---Yes, I do remember Mr Millman and I would have thought that Mr Swinson of Mallesons would have had a significant amount of input.

All right. Thank you. Now, Mr Doyle's touched on this point, too, that the RFP for various reasons didn't seem to be a process that might lead to the awarding of a contract, but it's right, isn't it, and accepting all of what's said about its shortcomings, it's right, isn't it, that at the time it was thought that it would lead to the awarding of a contract. That was said, it seems, quite explicitly in the meeting with the Treasury people that Accenture had?---Yes.

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And you were there at that meeting?---Yes, I believe I was, but there was also, I think, a belief early in the RFP process that it was possible and I think our procurement people had said, "Well, under certain controlled conditions, you can then begin a negotiation process."

A view is changed about the appropriateness of that course. That's right, isn't it? It seems to be right that initially the RFP process was intended to lead to a contract?---Yes. I think as we began to get input, it became evident to us that - and I think they were ranked and the vendors were advised that there were two vendors

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that were clearly potentially of interest to CorpTech to negotiate with, and we thought, well, that could be the most efficient process to deliver an outcome in the shortest time, but I think the advice then was clear that, no, you had to go back and follow a formal - - -

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A more formal process?--- - - - public tender process.

Yes. Thank you?---But if I may say, Mr Commissioner - - -

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Yes?--- - - - that process, we were actually very pleased the way the RFI yielded a lot of information. The RFP gave us good data on which to do scenario modelling. It was a general area that a very interesting and very productive process had been followed right up to the ITO.

Thank you.

MR DOYLE: Thank you. I'll just take up an aspect of that, if I may. It's obvious that there is in your email of 25 July no scoping documents. It doesn't define what it is that the recipients are to give their approaches about, rather they're to give you their approaches?---Yes. I think, Mr Doyle, our assumption in sending out that email, as I think I've clarified to Mr Commissioner yesterday, was that this email was intended as a clarification and a check list for all the vendors to ensure that everyone had the same list of issues of inputs that we would require, and it was placed on the fact that a great deal of discussion and material, and presentation had taken place, as I think you pointed out, each vendor had a particular approach and what we were seeking now was it were to try and get these common inputs on which we could start to look at comparisons.

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I understand. Now, Mr Commissioner has asked you or averted to discussions that you had with a representative or representatives of Accenture and Mr Bradley, and Ms Perrott on 2 August, and we'll come back to them later on, but the - it might have been 10 August. Anyway, in August at some stage. My apologies if I got the date wrong.

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COMMISSIONER: 2nd, I think.

MR DOYLE: Yes, I think it is the 2nd. Where it said some assurance was sought that in fact this process would lead to a contract?---Yes, I recall that.

Okay. And the response that was given to then, as they recall it, is that it could - it is a process which could lead to. Do you recall that?---I recall - I believe it was with Ms Perrott that she gave that opinion back to Accenture.

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Was that separately communicated to Logica and to IBM, and to SAP and others, that you can recall?---I'm afraid I can't be certain of that. 1

Would you go, please, to volume 32. Tab 31 to page 1. You should have there an email from you to Mike and Hugh. Do you see that?---Yes.

And that's Michael Duke and Hugh Bickerstaff at Logica? ---That's correct. 10

And I just want you to read to yourself what you've said there.

COMMISSIONER: What page are you on?

MR DOYLE: Page 1 of item 31 of volume 32?---Yes, I've read it.

Thank you. It finishes with you're saying, "There is, of course, no reason in an informal process such as this why you," that is Logica, "cannot submit further useful information later but those decisions will be reached by 14 August. Do you see that?---Yes. 20

Now, you plainly saw it as an informal process at the time - - -?---Yes.

- - - in 2007?---We were very conscious that it was an informal process. 30

And the significance of 14 August is that's the date when you would commence the next phase as you identified in your email of 25 July?---I believe that was our plan.

And Mr Duke records that it's not great news but a little oblique, I suppose. You'd accept that?---Yes.

Thank you. Now, I want to hold onto that volume because your email of 25 July required the submission of written responses but also suggested as a possibility the making of presentations to the senior management group?---Correct. 40

And you held, yourself, with yourself and others, meetings with a number of the suppliers ahead of 7 August to - - -? ---Yes.

- - - have them give you an earlier presentation of their proposal?---Yes. We specifically encouraged this informal interaction to make sure they were focusing on what we were particularly interested in. 50

Thank you. Now, still in that section of volume 32, would you turn to page 2. You have an email at the bottom dated 31 July 07, the text of which is over the page, which

records a booked meeting with you for a day for the next - 1
I'm sorry, for the next day at 1 pm. Do you see that?
---Yes.

And if you go back to page 2, you responded, you see, in
the middle of the page, also on 31 July saying, "The
meeting's fine. We'll also have the requisite people at
the meeting who will be tasked with assembling this
information." And of course, the information is 10
information which Mr Duke had requested?---Correct.

So it's evident, Mr Burns, you have no difficulty in having
this meeting with Mr Duke - - -?---Not at all.

- - - to talk to him about whatever he wanted to talk about
in relation to this proposal?---Certainly.

Would you go back to the top of page 2 and, again, to put
it in context, you've got to start at the preceding page.
Mr Duke sends an email later on 31 July saying that 20

*Hi Terry, I'm sorry, we actually wanted to meet
with just you and Barbara at 1 pm tomorrow. We
wanted to use this meeting to test our approach on
you both and to put some of our cards on the table
in what we are trying to complete, et cetera.*

---Yes.

Now, you had no trouble with him saying he wanted to come 30
and test ideas with you with Barbara before he put in his
proposal?---Yes. More on a suitable, almost one to one.

Yes. But you had no trouble with the concept of a possible
supplier bouncing ideas off you, if you like, testing them
with you.

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COMMISSIONER: But it wasn't one on one, was it? Wasn't Ms Perrott to be there?---There was two of us, but in other words, not a presentation to a group. 1

MR DOYLE: Indeed, it's put in terms you wanted to be a small group not the bigger group that you'd contemplated, and to test our approach on both of you?---That's correct.

And to put some of our cards on the table so that when you read this, at least, you would have anticipated that he was going to ask you for some reaction to what they were proposing and to test the ideas with you?---That's right. 10

And you had no trouble with him seeking to do that?---No, I think I said yesterday that I we saw that it was our job to be available and to give reaction and ensure that supplier responses were focused into our areas of interests.

Of course. And do you recall if in fact that meeting took place?---I do have a general recollection of it. 20

And do you recall if Ms Perrott attended?---I believe she did.

And do you recall if Mr Duke told you what Logica's presentation was going to be and test - - -?---I would have a general recollection, Mr Doyle, of the content.

And, well, tell me, please, did he tell you what some of the things were that Logica was going to be presented and asked for your reaction to it?---That was the tenure of the discussion. 30

And asking for your ideas and whether they met the objectives that you'd hoped they'd be meeting?---I think we did give a fairly frank feedback, it was a back and forth type of discussion.

And the frankness was to identify whether the intended presentation with Logica was going to do met the objectives that you were hoping the suppliers would be making proposals about?---Correct. 40

Thank you. If you turn, please, to tab 30 in that volume, I want you to start, please, at page 3. You have an email on 20 July from Mr Porter to you?---Yes.

You see that? And it says, "Terry, our initial planning for our next meeting, as indicated, we would like a whole day to present to your team, preferably 31 July." By this stage, you had not sent out your email of 25 July, obviously?---Yes. 50

But would it be right to say that even at 20 July you were anticipating doing so?---Yes, we would have seen that as a clarification and culmination process at the end of all the information gathering. 1

Right. Would it be right to say even by 20 July, even if you hadn't drafted the email of 25 July, you had at that stage formulated the idea you were going to send out such a thing and get responses from the vendors?---Yes. 10

Do you think it likely that you conveyed that to Mr Porter? ---Again, I have to say I don't have any specific recollection, but your question was "likely", I would say it would have been likely.

All right. Well, doing the best you can, when he sends you an email on the 20th proposing a planned meeting for the whole day on the 31st, is it likely to be, that is, a step in him discussing with you and whoever else is to attend that meeting the intended Accenture proposal so that they too can get your feedback about what it is they're proposing and whether they're hitting the objectives that you hope they'll hit?---Yes. 20

If you go to the bottom of page 2, you'll see there's an email from you - and it goes over the page, unfortunately - dated 23 July, responding to Mr Porter's email saying:

No problem in principle for one day meeting, we just need to see the draft agenda and also probably need to give you a briefing update on our thinking in the next few days as well. Our thinking is driven by risk and cost mitigation needs, as outlined to you before. 30

---Yes.

So you had no difficulty in meeting him?---None at all.

And you intended when you met to give him a briefing update?---Yes. 40

And to outline your thinking?---Yes.

If you turn back to page 2, there's an email at 24 July, you see from Mr Porter to you?---Yes.

Which says, "Terry, thank you for the meeting today." Do you remember meeting Mr Porter that day, 24 July?---I wouldn't say I had a specific recollection. 50

It would be right to say that certainly be 24 July a draft of the email of 25 July had been prepared and, if not, approved at least submitted for approval?---Yes.

So that at the time of a meeting, which I'll ask you to assume you had with Mr Porter that day, you would have known that the email of 25 July was going to go out the next day, if not, in exactly the form that it was on the 24th, roughly that form?---Yes, I think that is the case.

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Thank you. And then he tells you in this email, "As a result of what we discussed, we would like to move forward with the following plan." I'll ask you to skip down to the entry against 7 August:

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Presentation of the Accenture proposal, preferably at Accenture. The first hour of the meeting would be an executive summary of our presentation. We would like both Gerard and David to attend the first hour with the whole evaluation team being there for the whole day.

That's the date, 7 August, that you identified as the date by which proposals were to be submitted in your email of 25 July?---Yes.

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So unless it's a remarkable coincidence, it's pretty clear that by 24 July at least you and Mr Porter had discussed that date as the date by which the final presentations were to be submitted?---Yes.

Yes?---It was in the email, I believe.

Well, it's in the email which goes the next day, so what I'm really asking you is: you and he must have talked about it because you knew what the email was going to say when it went out the next day?---Yes, I would assume that to be the case.

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Indeed, it talks about the whole evaluation team being there for the whole day, so it's obviously he has in mind when he wrote this something which is to be presented to a team for some evaluation?---Yes.

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And that can only really be a reference to the process that you contemplate in your email of 25 July?---Yes.

Thank you. Now, going back to his email, if we skip down to the last paragraph, he says, "Please confirm your acceptance of this schedule. We would also appreciate confirmation, 7 August will be the closed date for all proposals." So he was wanting to make sure that the date of 7 August was the date that everyone would have to put their proposals in by?---Yes.

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And that's in fact what happened?---I believe so.

If you go to the preceding paragraph, it says, "Prior to 1 August we will be conducting one-on-one meetings with SDA meetings to assist us with our preparations." Who were the SDA members at the time?--Well, I was the head. I'd have some difficulties in putting names. I believe Mr Shah might have been technically occupying one of the positions, and I say "technically" because it was intended to be a temporary transition. I'm not sure whether we'd started getting people in to do with scoping at this date, I'm just not sure where were in the process at this date, but there were people who were available.

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Can I ask you: when you read this email, did you see any difficulty in members of the SDA conducting one-on-one meetings with Accenture personnel to assist Accenture with its preparations?--Not at all, I believe that would be their job.

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What sort of activities would members of the SDA have knowledge of?---The process around scoping, that we were keen to consolidate across government. Possibly at this time, we would have had the elements of a performance management process that we were keen to have resident in the SDA. Certainly information around the schedule as it was then in place in terms of priority of releases and agencies in their ranking order in terms of when the work would be done. I think that would be about the general summary.

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All right. One of the things that you saw - had in mind at least as the key role of the SDA was to if possible, drive the program towards early identification, forward planning?---Yes. The planning would be in the PMO but the solution design authority would be totally linked to the PMO in terms of their role as definers of scope and - the user requirements as they came forward.

Back to his email and my copy has an unfortunate hole punch in the wrong spot but I think it says 1 August. Can you read that on the second line?---On mine, the 1 is there.

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Okay. A two-hour key issues meeting and workshop. "At this meeting, we would prefer to" - is it have? I can't read the word?---Mine is punched there.

Well, we can probably make sense of it. Refer to something the audience is small, it might be Keith, and at the executive role, that is the Accenture team from today, Simon, Marcus and Brad as well as Doug Snedden, meeting with Gerard, David Barbara and Terry, if necessary we could limit the engagement of Gerard and David to one hour, so presumably the others would view for longer?---Yes.

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Did you have that meeting?---Yes, I do recall that meeting at Accenture premises.

All right. We will come back to a note about that shortly. Certainly when you read this email, you saw no difficulty in having planned to have that meeting with these people on 1 August?---Not at all.

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And the objective of such a meeting as far as you were concerned would include enabling Accenture to test its ideas with you to get your reaction to them and to see whether they were working hitting the objectives you wanted them to hit? ---That was the key objective.

Yes, the key objective, and to get your feedback about those very things?---Correct.

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Is that what happened when you had the meeting?---I believe so.

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BURNS, T.E. XXN

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Thank you. Now, if you turn to page 1, you will see at the bottom of the page you sent an email back to Simon saying, "Happy with these dates and format," and you need to get confirmation about the senior group, presumably about their availability?---Yes.

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And then go back to the top of page 1 where this is an email sent to Trish Brayden but copied to you amongst others. It says - sorry, I have left one thing out. In the middle of the page you will see an email from Trish to Simon Porter. "Dianne is currently assessing the availability of the various people to attend," and then she asks for an agenda. Do you see that?---Yes.

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The response is the email on the top that I was taking you to. "The (indistinct) agenda for this meeting will involve discussing our plans for the executive level governance for the program including organization structure, our proposed contracting model and approach." Now again, Mr Burns, when you read that you saw no difficulty in having a meeting prior to Accenture submitting its proposal in which they were going to discuss with you and with these other people that he has asked to attend those things?---None at all.

20

And to give your reaction to it, if you like?---Yes.

To enable them to take your action into account?---Yes.

In the formulation of their proposal?---Yes.

30

Thank you. Now, did you have - just excuse me. I have shown you some exchanges between Logica and yourself and Accenture and yourself and you were taken by Mr Flanagan to some emails about setting up - or at least the conduct of what is described by Mr Bloomfield as a dry run meeting with IBM? ---Yes.

Do you recall if you had a similar engagement with SAP?---I don't recall that specifically, I'm afraid.

40

With any other vendor?---Not at this late stage, I think of the RFP.

All right, thank you. Now, in terms of these meetings, an issue seems to be or an issue which has been raised it whether there ought to have been a CorpTech person or a government person present with you, you understand that sort of question to have been raised?---Yes.

You had your discussions - or at least the dry run as it was called - with IBM with Mr Goddard present?---That is a meeting I don't have specific recollection of but I did read Mr Bloomfield's email saying he did have a meeting with Mr Goddard and myself.

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You don't recall it?---I don't specifically recall it.

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Never mind. In your performance of your engagement with CorpTech, were you told that you could only have meetings with the suppliers if there was a government person present?---Not at all.

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Were you told to the contrary; that is, were you told that you should go out and speak to these people and do things?---Yes, I had a very clear understanding from Mr David Ford's preliminary introduction of me to the vendors where basically the instruction was they should talk to me and I should talk to them. At no time did Mr Ford say, "You must always talk to Mr Burns in presence of public officials, CorpTech personnel." He pointed to me.

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All right. Now, the second issue seems to be that the - and I want you to assume that the meeting you had with Mr Goddard with Mr Bloomfield was at IBM's offices rather than at CorpTech office?---I understand.

20

Were you told that you couldn't do that, that you couldn't go and have meetings with people at their own offices?---No. I did mention yesterday that I had numerous meetings with SAP people just around the corner and those were frequently one-on-one meetings.

Right. Frequently one-on-one meetings with whom?---Rob Pedler, the name of a person I had forgotten was mentioned yesterday. Chris Peck.

30

Chris Peck?---And Megan Janke.

All right. You also had occasion to go to Accenture's offices, didn't you?---I don't specifically recall that happening except for the major presentation. It was as case that Accenture's offices I seem to recall were out on Coronation Drive.

Right?---So they were a fair distance away.

40

Thank you. This is perhaps obvious but in terms of the content of the discussion, you obviously had no difficulty discussing with each of the suppliers their proposal?---Not at all.

Yes?---I did see that as my role.

That's what I was going to ask you; is that in fact your understanding of what you were required to do?---That's exactly correct.

50

Thank you. I will just show you one more document and then we will leave this topic. Volume 26, please.

THE COMMISSIONER: Should I sound a 10-minute bell?

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MR DOYLE: You can sound it but I'm sorry, I won't finish in 10 minutes. 1

THE COMMISSIONER: How long will you be?

MR DOYLE: Probably another 30 minutes from now.

THE COMMISSIONER: Mr Burns has given us a lot of his time and he has a plane to catch to go overseas?---I am only flying in the afternoon, Mr Commissioner. 10

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I know. You've been very good about that. You're supposed to be at the airport two hours before, aren't you?---Yes. 1

And there's something called traffic, you know? Mr Doyle, can you make sure you finish by 11.00?

MR DOYLE: I'll do my very best, and I hope to.

Page 1169, please?---I'm sorry, was it volume 26?

It was?---I don't have that. Sorry, the page number? 10

1169. It's two sheets from the back?---Right.

This is what's described as a reconstructed note of a meeting that was held on 2 August 2007 where you were shown to attend along with others. Now, do you recall that meeting?---Yes, I do in general terms.

Good. You were taken, I think, to this yesterday. I want to ask you about only a couple of things. Halfway down the page, you'll see the objectives of the meeting, at least from Accenture's point of view, were to engage with exec prior to workshop on 7 August and ideally test one or two key ideas. I know they're not your words but you would have - your recollection is that's in fact what happened at the meeting. They wanted to engage with the executive and to test some of their ideas with the executive ahead of the completion of their proposal?---Yes. 20

Thank you. And if you go down to the proposed topics, you'll see it's got item number 5?---Yes. 30

Feedback on Accenture's sessions with CorpTech staff. Do you recall at the meeting you were asked - or that is that the non-Accenture people were asked for feedback on Accenture's sessions with CorpTech staff?---I can't say I specifically recall that, I'm afraid.

Okay. Never mind. Thank you. I want to move to a different topic now and for that you'll need volume 33? ---Is that the second part of it again? 40

No, the first part of it.

COMMISSIONER: Did you question Mr Burns about the 2 August meeting with Accenture on the basis that meeting occurred at Accenture's offices?

MR DOYLE: Did I? 50

COMMISSIONER: Yes.

MR DOYLE: No.

COMMISSIONER: No. All right. I thought you have.

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MR DOYLE: Sorry, the presentation occurred at Accenture's offices. That's your recollection, isn't it, Mr Burns? 1
---Yes.

COMMISSIONER: What date was that?

MR DOYLE: I think it was planned to be the 7th but in fact it was on 8 August.

COMMISSIONER: I just notice that the 2 August meeting was at the Treasury. 10

MR DOYLE: Yes. Page 36?---36?

36. Now, this is a draft, at least - I'm sorry, this is a document you prepared and sent to Ms Perrott recording a call you received from IBM?---Yes.

And do you recall that the call you received was from Mr Bloomfield?---I think I mentioned that I don't specifically recall the telephone conversation but I do recall the issue. 20

Right. So you can recall the issue of a complaint arising or an issue arising that touched upon two things. One was that someone, a staff member at an agency, had mentioned that they had access to what's describe as the RFI evaluation matrix?---Yes.

And if that were true, you'd want to have that reported to you so you could do something about it?---Yes, to stop the issue. 30

Yes. And the second thing was that IBM expressed a concern to you that some other document or documents may have been able to be accessed?---Yes.

And do you recall what it is that the IBM representative raised with you?---I don't, I'm afraid. 40

This document refers to the draft RFO, which - and the RFO is in, at least in my version, in shade, in some way? ---Yes, mine too.

But can you recall if the concern expressed by the caller to you was that other documents might be able to be accessed on the CorpTech LAN, local access network?---I think if a document had been accessible, then our concern was that there might be a number of documents. 50

All right. So might it have been that the IBM person expressed concern about some particular documents and you were concerned about, if that were true, about the availability of access to a draft RFO?---I believe so.

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Thank you. Now, can you go - you'll need to keep that and I'll also ask you to go to exhibit 32. I'd like you to go to the fourth sheet?---Page 4? 1

Mine aren't numbered, sorry, I can't tell you. It's presumably page 4.

COMMISSIONER: Which email is it?

MR DOYLE: It's the one from Cheryl Bennett?---Yes. 10

Thank you. Which you've read, I know, before today?---Yes, I think I was shown that.

Thank you. And one of the things it does is identify some scoring between Accenture and IBM for the outcome of some scoring between Accenture and IBM?---Yes.

Which would have been something which presumably would have been revealed had someone had access to the RFI evaluation matrix and the vendor strengths and weaknesses document? 20
---Yes, I believe so.

Okay. And the next thing it discloses is something about the perceived offshore component of an IBM proposal?---Yes.

Do you see that? Which, again, would have been something revealed by that document, the RFI matrix et cetera?---Yes.

In terms of the scoring, on 20 August, all of the suppliers were notified, weren't they, that Accenture and IBM were the two most highly rated tenderers?---I recall the letter. I'm not exactly sure of the date, but it sounds correct. 30

Okay. so that both Accenture and IBM became aware they were the top two?---Yes.

And not necessarily were two of them. And SAP and Logica were told they weren't the top two by implication?---Yes. 40

And if anyone else put in a proposal, they too were told? ---Yes.

Thank you. Apart from identifying the top 4, that process played no further role, did it, in the ITO process. That is, the evaluation led to the selection of the four who were to receive the ITO document?---Yes.

Thank you. In terms of the disclosure of the perceived strengths or weaknesses of an offshore component, obviously by this time the evaluation process of the responses to your email of 25 July had been completed and the result that is notified by the email I want you to assume was 20 August?---Yes. 50

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The detail of the various supplier's responses to your 25 July invitation, which for convenience I'll call an RFP, played no role in the evaluation process of the ITO, did it?---None at all.

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Thank you. When it came to the ITO, the drafter or drafters of it identified in it all of the kinds of information that it required of the tenderers to submit? ---Correct.

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And you know that one of the kinds of information that was not asked for was identification of the level of offshore resource?---I believe that's correct. 1

And you also know that there was no clarification sought in the course of the evaluation process to identify the level of offshore resource?---I believe so.

Thank you. The fact that someone had been able to access the evaluation matrix showed a defect in the security regime at CorpTech. You'd assume it to be the fact that someone was able to do that?---Yes. 10

And that was, of course, for concern for you?---Yes.

And you wanted to make - - -

COMMISSIONER: And if the person who accessed the information was one of the tenderers, that would show dishonesty on the part of that tenderer, wouldn't it?---I'm sorry, dishonesty by who? 20

If someone, it seems, gains access to the RFI evaluation, RFP evaluation matrix, if that person was a tenderer it would show, would it not, dishonesty on the part of that tenderer?---It would be my assumption.

Yes, thank you.

MR DOYLE: If it was accessed by a CorpTech employee but released to someone outside, that would suggest a defect in the CorpTech security?---Yes. 30

It would be wrong of the CorpTech employee to have done so? ---Yes.

And you would wish to make sure that was stopped?---Yes.

Thank you. Now, the second thing that you refer to in your letter to Barbara Perrott was that documents were available on the LAN, that's my word, not yours, but you understand what I'm talking about?---Yes. 40

And that was the concern which someone from IBM had raised with you?---Yes.

And they told you that they had heard that documents were available to anyone on the LAN which they, IBM thought, shouldn't be?---Yes. 50

And the particular document that IBM was concerned about was its own response to the - - -

COMMISSIONER: How can you put that to Mr Burns? How does he know what IBM's concern was?

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MR DOYLE: In the conversation. With respect, a great deal has been put to Mr Burns previously about things he can know nothing about, and I'm entitled, in my submission, to ask him about a conversation between him and an IBM representative.

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COMMISSIONER: Of course you can ask him what - - -

MR DOYLE: I put the question badly, I'll put it again.

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COMMISSIONER: All right.

MR DOYLE: As best you can recall it, was the nature of the concern expressed to you that IBM was concerned that its own proposal document might be available on the LAN to people who shouldn't have access to it?--I believe the tenure that input was that there was IBM confidential information that had been compromised.

That was the concern?--Yes.

20

And did the IBM person, can you recall, suggest that an attempt had been made to check whether that was true but had not been able itself to do so?--I'm afraid I can't answer that with certainty, Mr Doyle.

Thank you. But nonetheless, you saw it as a matter you needed to do something about?--Certainly, it sounded serious.

30

Because it too represents a compromise - it would in the CorpTech office - of the security of documents provided to it?--Absolutely. Clearly, yes.

Can I move to another topic? Excuse me. And that's the ITO itself. I'll put some propositions and see if you agree with me. It is a comprehensive document, it lists a series of 100 or so questions which CorpTech wanted answered by each of the tenderers. Yes?--Yes.

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That it contained a very significant amount of data about the technical requirements of the system which CorpTech wanted the tenderers to consider and quote upon?--Yes.

And that is in the tens of thousands, if not, more pages of documents?--I believe so.

It's stated the requirements as to the form in which the response was to take, namely, to state a fixed price for some phases and a best estimate for other phases?--Yes.

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It could have required the statement of a not to exceed price, but it did not?--Yes, I would assume so.

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Okay. It did not require any form of reconciliation between the price which was being tendered for in the ITO and any earlier prices that the tenderers may have provided?---No.

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Thank you. It made plain there would be an evaluation process?---Yes.

It was open to the suppliers to ask for information from CorpTech in order to complete their responses?---Yes, I believe so.

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And many of them did?---Yes, I believe so.

And the process was: when anyone did, the response was provided to all of them?---That's correct.

Thank you. Then once the tenders had closed, the evaluation process was to commence?---Yes.

20

And there was established a series of teams of people with different expertise?---Yes.

And who was responsible for the identification of the teams and the selection of the members of them?---I believe Ms Perrott played a significant role in identifying those people. They would have come forward from the senior management of each of those areas, so they were compiled by the CorpTech because they were all CorpTech people.

30

Thank you. And you know that they had the ability to ask for any information that they sought in order to better understand the tenderer's proposal?---Yes.

And they did so?---I believe so.

And in the course of it, requests for clarification was sent out and the tenderers provided responses to those requests?---Yes, through Ms Blakeney.

40

Thank you. If there was any doubt about a particular technical solution, your understanding of the process is that the team or teams with which had responsibility and expertise in that field would consider that question. Yes?---Yes.

And if they needed more information they'd ask for it? ---Yes.

And that would be true of, really, any topic that arose in the course of the evaluation process?---That was the idea.

50

Thank you. There was a matrix, if you like, for the provision of scoring and then weighting of the scoring and then some mathematical formula for the determination of the value for money?---Yes.

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And that was something which was determined by whom?---I'd have to be honest and say I'm not sure. It would have probably come out of the finance and procurement team. 1

But not by you, Mr Burns?---Not at all.

All right. Thank you. One of the things you were shown yesterday was an appendix to the evaluation report. I'd like you to go to that evaluation report again, please, it's in volume 22. And the report commences at page 1? ---I'm sorry, did you say 22? 10

22.

COMMISSIONER: Page 1, volume 22. Page 1 of volume 22? ---Page 1? Sorry, I was in the tab.

MR DOYLE: It's all right?---So it's 19, sorry.

Do you have it?---Yes. 20

Thank you. I take it you have seen this document before? ---Yes.

When was the most recent time you've seen this document? ---I think yesterday.

Okay. You were shown yesterday appendix D, what I want to know is whether you read the report itself?---No. 30

Not since 2007, is that as I should understand it?---I'm afraid so.

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All right. I'm not going to ask you to do it now. If you turn to page 3 of the report - - -?---Yes. 1

- - - you will see it has a heading Evaluation Criteria which it tells us were defined in the ITO and that's your recollection?---Yes.

And then it describes the process which I won't trouble you with. If you go to page 5, it describes the various evaluation panels - - -?---Yes. 10

- - - or the sub-teams of the panel?---Yes.

Looking down, it seems to be consistent with your recollection of the various teams and its composition. Is that right?---Yes. There was a change in the cost team, you probably recall that.

No, we have covered all of that, don't worry about that. Then if you go to page 7, there is an evaluation model which identified criteria and weightings, and you see set out below in a table, criteria C1, C2 et cetera with identification of what those criteria are - - -?---Yes. 20

- - - and the weightings?---Yes.

That is something that was designed by someone other than you, Mr Burns?---Absolutely.

Then below that you will see the cost analysis which has the mathematical formula which I mentioned and you're familiar with that?---Yes. 30

That's the formula which was applied to identify the highest rated tenderer?---I'm sure.

If you turn the page, you will see the weighted scores and outcomes are identified and then the cost benefit analysis at the bottom identified?---Yes. 40

Which identifies IBM as providing the greater cost benefit than the second-ranked Accenture. Do you see all of that?---Yes.

Now, you were asked yesterday about appendix D which does deal with the question of budget, the available funds left. Do you recall that?---Yes.

Tell me if you can answer this; in the evaluation process itself, that is in the evaluation methodology criteria and the cost benefit analysis and the formula which leads to the highest score, it's right, isn't it, that the government's budget plays no role at all?---No, not to my knowledge. 50

Thank you. That is, you're agreeing with me it's right that it plays no role. 1

THE COMMISSIONER: Sorry, what plays no role?

MR DOYLE: The government's budget played no role in the matrix of the evaluation or the cost benefit analysis?
---Yes, that's quite correct.

Thank you. If you turn now to appendix D. Do you have that?---Yes. 10

Thank you. To page 2 of it?---Page 2 of appendix D.

Yes?---My answer is 23. Is that what you mean? 24?

If you look at the second sheet of appendix D, that's what I mean?---Yes.

It has a table at the top?---Yes. 20

Have you studied this before, are you familiar with what it provides?---Not for a long time.

All right. I will put this to you and you can tell me if you agree; having identified IBM as the highest ranked tenderer in the evaluation process, it was then necessary and recognizing that its price was what it had identified - or at least what the team had assessed as the relevant price for the determination of its cost benefit analysis? ---Yes. 30

If I had to work out just how much money the government had to carry that into effect - - -?---Yes.

- - - and how far one could get with that proposal, whether you could afford to do all of it or only part of it?---Yes.

And that is what this document seeks to identify?---I believe so. 40

Okay.

THE COMMISSIONER: But accepting that is what the document seems to say, was that your understanding at the time of what the ITO process was meant to achieve? A list of things that could be done for the amount of money then available under the existing budget, or was it designed to be more ambitious than that, to get a prime contractor who would deliver the whole of government program for the best price but regardless of what was in the budget at the time? ---Yes, I believe you're correct there, Mr Commissioner. Obviously the ITO in the end was something that we would have to get from the vendors and we would then see what the costs profiles of completing the work or making significant 50

headway into it would be, then obviously there was the reconciliation, "What have we got?" so how far down the line would that take us.

1

Or how much more money can we find?---Yes. Obviously that was something that was the under-treasurer's perplexing problem was how would be approach it if the costs show that the path was going to take a lot more money.

But as you understand it - this is what I have thought anyway, the ITO process wasn't predicated on the basis that, "Tell us what you can do. You're the suppliers, tell us what you're going to do for \$108 million," it was, "Tell us your best price for doing the whole of government implementation"?---Yes, and it was an approach particularly but I think, Mr Commissioner, if I can just assist you there.

10

Yes?---I think that was the strength of the thinking around that framework contract approach and a prime contractor in that we believed it enabled us to break the work up in small sections, work packages if you like and these would be in our determination. We were seeking to have fixed costs of very firmed costing around statements of scope.

20

For each package?---For each one, and we believed that was the key fundamental strength in that contract designed by Mallesons I believe it was and we were very pleased with that approach because at least it enabled us then to commence with the remaining budget on the prioritized agencies and departments and the most critical work that was needed, and then it would simply be a question of saying, "Well, the system is working, the contract is working, the vendor is working." The contract also gave us the right to say, "Well, you haven't performed. You're out," and we proceed potentially with someone else without it being locked into some long-term arrangement. That was the strength of the thinking that I think was exceptionally good.

30

Thank you. While I have interrupted you, can I just ask you one thing; if you go back to page 5 of that report - - -?---Page 5 of the - - -

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The evaluation report. Under 3.7 of the evaluation panel? ---Yes.

It mentions procurement and probity advisor, David Stone, and legal review and probity advisor, John Swinson, can you recall if in fact either or both were appointed to the role of probity advisor?---My best recollection, Mr Commissioner, is that Mr Swinson was evident in the process from time to time.

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That may be so but can you recall if he was actually appointed as probity advisor?---That was my understanding. I'm not exactly certain, I'm afraid.

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Thank you. Mr Doyle?

MR DOYLE: Only two other topics, I think.

One of the issues that arose in the course - it arose certainly in the course of the consideration of the ITO was Workbrain?---Yes.

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You know, don't you, that Workbrain had been selected for use in - for some use at least, in the roll-out of the whole of government program at least many months earlier in April 2007?---Yes. It was quite a long time before, I believe.

Yes. It was an essential requirement of its selection for that role, whatever that role was going to be, that it be able to interface with SAP?---Yes, I believe so.

20

That was all something which was considered and accepted in April 2007?---Yes.

Considered by CorpTech personnel with whatever assistance they required from experts and accepted many months earlier?---Yes, all that procurement had been completed before.

30

Thank you. In relation to the ITO process itself, an issue was raised about whether the complexity of the award regime of some of these departments could be met satisfactorily by the award interpretation of Workbrain?---Yes.

And you recall that that was a question that arose?---Yes, it was a concern.

And you know that people with expertise within the evaluation team raised that and considered it as a matter of significance?---Yes.

40

They investigated it?---Yes.

They asked for information - - -?---Yes.

- - - and they were provided it?---And I believe some discretionary submissions came back from IBM on it.

True. I want to ask you a bit more generally if I can. You are absolutely in no doubt that they identified the things that they wanted to be satisfied about, asked for information and were given it?---That's my understanding.

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That included, as you can recall it, a phone call to at least Gartner?---Yes, and I think there were others but I wasn't part of the others to my recollection.

1

All right, thank you. Was the issue that was being considered the capacity of Workbrain to interface with SAP or was it the capacity of Workbrain to do successfully the award interpretation function?---It wasn't an area that I was specifically involved in but my understanding was that the concern of the technical team that they wanted to be reassured on was particularly around the new idea that IBM had put forward of being award computation with Workbrain.

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Thank you. Now, you said at the course of answering my friend yesterday that CorpTech had a contract with Gartner to get information. Do you recall that?---I'm sorry - - -

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CorpTech, I think you said, had a contract with Gartner?
---Yes.

To, what, be able to consult it about things - - -?---Yes. I understand Gartner's business model is that you can pay a fee and you get access to certain information and that was Mr Hood, he had the authority to put those questions, so they had various levels that you could subscribe to and then ask questions of their immense database. And certainly in CorpTech's case, I know because I sat in on the phone call, there was a person who you actually spoke to and who managed your account and your requirements, and would assist in finding the answers for you.

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And you can recall that facility being engaged in the course of the ITO evaluation process in relation - - -?
---Yes, I do recall that one specifically.

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COMMISSIONER: Is it too much hope that you can recall what questions were asked and what answers were given?---I do recall the questions because the concern of the technical team was around this award computation, I guess, so using an external computational engine, Mr Commissioner, if that makes sense to you, in this process. That was the concern and that was what the technical team was seeking validation of. I seem to recall that Gartner's response was reasonably non-specific in that they themselves could not immediately point to successful implementations of that particular strategy, but my general recollection of the Gartner call was sort of, well, they could see no reason why it could not be made but of course it all depends on volume, scope and design issues.

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All right. Thank you.

MR DOYLE: All right. Last topic, if I can. Just in broad terms, comparing the position in relation to your RFP, that is the 25 July email, and the ITO, it is right to say that there was a great deal more information provided to the tenderers, at least in documented form, at the time of the ITO, that had been provided to IBM at least back in July?---Yes.

40

And that information included important information about the extent to which build had been - the various components had been built at the time of the ITO or at the time of the RFP. So a great deal more information was provided about how far along the build process had been completed?---I'm sorry, I wonder if you would repeat that.

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Part of the information which was contained in the ITO was to identify the extent to which the build of the various possible components had been to that point carried out?
---Yes. 1

Which was more information, significantly more information than was available to IBM, at least, at any earlier stage?
---Yes, I presume that's correct.

Another thing, the ITO contained a great deal of detail about the number and complexity of the awards and agreements which controlled the various employees and the various departments?---Yes. 10

And that, too, was something which had not previously been provided to IBM, at least the detail hadn't been provided to IBM at any earlier stage?---I would assume that's correct.

Okay. And do you recall, also, there was an issue about how to treat people who were described as engaging in concurrent employment? Is that an expression that - - -?
---Yes, I do remember that term as an issue. 20

And there was an issue about how one was to treat someone who was actually employed by department A but seconded to work in department B?---I do recall that.

Yes, or even different positions within the one department?
---Yes. 30

And there was a definitional issue about how one called someone concurrently employed and so on?---Yes, I do recall that.

And that was something which was information about which was provided and clarified in the ITO?---I assume that's correct.

I've got a minute to go, Mr Burns. That's all I have, thank you. 40

COMMISSIONER: Thank you. Mr Flanagan, anything in reply?

MR FLANAGAN: No further questions of Mr Burns. May Mr Burns be excused?

COMMISSIONER: Mr Burns, I appreciate your assistance, you are free to go and enjoy your retirement?---Thank you very much, Mr Commissioner. May I thank you for your assistance in rearranging the timing today. 50

Not at all.

WITNESS WITHDREW

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COMMISSIONER: Yes, Mr Flanagan, Ms Nicholas? 1

MR FLANAGAN: Ms Nicholas will take the next witness.

MS NICHOLAS: I call Sheryl Jensen.

JENSEN, CHERYL PATRICIA sworn:

MS NICHOLAS: Could you please state your full name to the commission?---Cheryl Patricia Jensen. 10

And it's correct that your maiden name was Cheryl Bennett?
---Correct.

Now, you have given a signed statement to the commission.
Could Ms Jensen be shown this document, please?

COMMISSIONER: Yes.

MS NICHOLAS: Ms Jensen, you recognise that document, it's dated today - - -?---Correct. 20

- - - 12 April 2013. That's a copy of your statement?
---Yes.

I tender that, Mr Commissioner.

COMMISSIONER: Yes. Mrs Jensen's statement is exhibit 47.

ADMITTED AND MARKED: "EXHIBIT 47" 30

MS NICHOLAS: Could Ms Jensen be shown this document as well, please. Do you recall being interviewed by this commission on 2 April?---Yes.

Could you have a look at that, please. Now, I don't expect you to read it all but do you recognise that as being a transcript of the interview that you gave?---Yes.

Mr Commissioner, subject to any corrections, I tender that record of interview. 40

COMMISSIONER: Very well. The transcript of the interview with Mrs Jensen is exhibit 48.

ADMITTED AND MARKED: "EXHIBIT 48"

MS NICHOLAS: Now, it's correct, Ms Jensen, that you were employed by IBM between October 2006 and October 2011?
---Correct. 50

And you were employed in the role of client executive during that time?---Yes.

What were your responsibilities in that role?---My responsibilities were to own and manage the relationship with my clients and to own the strategy within my client's business.

1

Who were your core clients?---My core clients were Queensland Health, Mater Health and Uniting Health Care.

So it's correct that your clients had a health focus and some of them were public sector clients. Is that correct? ---Correct.

10

Now, who did you report to in that role?---Rob Pagura.

Rob Pagura. You took your instructions from Mr Pagura? ---Correct.

And was he located in the same office as you?---Correct.

Was Mr Pagura the public sector lead for IBM?---In Queensland, yes.

20

Queensland. Now, you were located in the Brisbane office of IBM. Did you sit with a team of client executives? Where were you physically located in the office?---So the level that I sat on was all sales people; there wasn't any technical people or project people, or anything like that, so it was hardware/software services and client execs, so a whole floor of sales people on level 5.

30

Open plan office?---Yes.

So you sat just with sales executives?---Yes.

Did you ever sit next to Mr Bloomfield at any stage?---Yes.

You did. But he's not a sales executive, is he?---He is for services.

For services?---Yes.

40

Okay. Thank you. Now, who did your sales team comprise of in 2007?---There was myself, Cliff Bailey, Rob Pagura and around that stage, and I can't be 100 per cent clear, but we did add a third person to the team, whether it was end of 2007 or 2008, I'm not quite sure.

So it's right to say that you were focused on business development for IBM?---Correct.

50

And did part of that role involve identifying business opportunities for IBM?---Correct.

And selling work for IBM?---Correct.

All right. Queensland Health, you've just told us, is one of your key clients. Who would be your main points of contact at Queensland Health?---They varied from technical people right up to the ministers, so I owned the relationships with every level.

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You own the relationships? What do you mean by that? ---Well, I'm the prime point of contact for anyone in Queensland Health to contact IBM.

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In 2007 would you have regular meetings with Queensland Health representatives?---Yes. 1

Who were those representatives?---There are hundreds of people, I couldn't specifically just isolate one or two.

If you could name a few, please?---There's obviously the CIO at the time.

Who was?---I can't recall if it was still Sabrina Walsh at that stage, or who it was. There would be executives directions, there would be senior directors, there would be technical managers. I couldn't recall exactly who was in what role because they changed so frequently. 10

But certainly some meetings at quite a high level with people such as the chief information officer that you just mentioned?---Correct.

You commenced work at the end of 2006 for IBM, and it's right, is it, do you recall that Mr Bloomfield commenced at IBM in February 2007?---Yes. 20

So you start roughly around the same time. Were you aware that he'd come across from Accenture?---Yes.

And he is, is it correct, he was the commercial and public sector lead for IBM?---Yes.

So he was a public sector specialist. Were you aware that Mr Bloomfield was seeking to increase IBM's share of public sector work when he came across from Accenture?---Yes. 30

Did you work with Mr Bloomfield on that?---Not specifically.

Did you ever work directly with Mr Bloomfield?---No.

Did you ever work with him in any capacity?---Only in our group public sector team meetings. 40

And how often would those group public sector team meetings occur?---Weekly.

And who would attend them?---The public sector team and the public sector leads in the hardware, software and services business.

Could you just explain for us who would be on that team, please?---Rob Pagura, Cliff, myself, Lochlan, sometimes Brooke and I can't recall who the hardware and software people were, I think it might have been Aaron Brown might have been in the software role for public sector at the time, and may or may not have been Vicky Blackwell for hardware. 50

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JENSEN, C.P. XN

You mentioned Cliff. Is that Cliff Bailey?---Correct. 1

And you mentioned Brooke?---Brooke Freeman.

As at the beginning of 2007, were you aware of a Shared Services Initiative for the Queensland government?---Yes.

And it was one of the most significant public sector IT projects at the time?---Yes. 10

Were you aware that CorpTech were looking to appoint a prime contractor in 2007?---Yes.

And were you aware that was going to be one of the biggest government ITC contracts in Queensland at the time?---Yes.

IBM ultimately puts together a bid for that work. Did Mr Bloomfield ever approach you for assistance in that bid? ---No. 20

Did you ever play a role in that bid?---No.

Who from your team did play a role on that bid?---Cliff, because Cliff owned the whole of government outside of the Health team, and, of course, Rob Pagura.

So you never had any involvement?---No.

Can I ask: as part of your role, did you routinely do market research?---Not routinely, no. 30

No market research? Did you ever have cause to look outward to see who IBM's competitors were in the market at the time?---Yes.

And who did you understand to be IBM's competitors in the market at the time?---For my roles specifically?

For your role?---There's a large range of competitors, depending on whether we're talking hardware, software or services, so each of them have their own category, some cross over into both, very little cross over into all. 40

Take services, for example?---Services, companies like CFC, Accenture, Logica.

Is it correct to say that you had significant experience in government tender processes?---At the time?

Yes?---No. 50

But you were at IBM for five years. Would you say, now, that it's correct that you're experienced in government tender processes?---Yes.

I'll take you, again, to 2007. You're aware that the team that you've identified is engaged in a competitive bid process for the prime contractor role. Is that correct?
---Yes. 1

Even though you didn't play a role in it. Are you aware that bid process was broken into what's - the terms are used interchangeably - but a request for information, a request for proposal and an invitation to offer, you're aware of that process?---Yes. 10

Did you ever work onsite at Queensland Health?---No.

Did you ever work onsite at CorpTech?---No.

Did you have regular meetings with Queensland Health?
---Yes.

You had regular meetings at CorpTech?---No.

And you never had access, did you, to the Queensland Health information systems?---No. 20

Never had login or access to the local area network?
---Definitely not.

Did your team work onsite at Queensland Health?---No.

None of your team worked onsite?---None of my company's team. 30

What about CorpTech?---No.

Can I show you an email, please, it's exhibit 32, at page 4. You're familiar with that email, are you?---Yes.

I'll take you to paragraph 7 of your statement, please. You say there that you don't have any recollection of sending the email, but you accept that you sent it. That's correct?---Correct. 40

You address the email to Mr Bloomfield and Mr Pagura, it's sent on 22 August 2007, and you copy in Brooke Freeman, Chris Prebble, Cliff Bailey, Kate Hillman, Keith Pullen, Sarah Simpson, Jason Cameron?---Correct.

So nine recipients in total. You start the email, "Hi team." Why did you group them together as a team?
---Presumably because I knew they were all involved in the CorpTech business. 50

CorpTech business?---Or the services business and public sector business.

Did you know Mr Prebble at the time?---Not that I recall.

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JENSEN, C.P. XN

Had you met him at the time?---Not that I recall. 1

So why did you include him on the email distribution list?
---Maybe because I was new and he was part of the services
team working with Lochlan, I can't specifically recall.

What was Mr Prebble's role?

COMMISSIONER: I missed the question. 10

MS NICHOLAS: Sorry. What was Mr Prebble's role?---I
don't know.

So you didn't know him and you didn't know his role?---I
can't specifically recall now what his role was or if I met
him at the time.

Kate Hillman?---Kate was part of the services team.

Services team. Sorry, when you say "services", is that 20
sales team or project team?---Part of Lochlan's services
division.

Just so that I'm clear, when you say "services", is that a
client executive or a sales representative, or is more of a
technical person who be engaged into CorpTech?---I do not
believe Kate had a technical capacity, so she must have
been sales.

Keith Pullen?---Part of the services team. 30

Sarah Simpson?---I don't specifically recall, but she must
have been part of the services because I've outlined who
our public sector team was.

You'd met Ms Simpson at that time, though?---Not that I
recall.

Not that you recall? Jason Cameron?---Yes, I knew Jason. 40

And were you working with Jason at the time?---I shared a
floor with him, that's the majority of the capacity that I
dealt with Jason.

So you weren't working with him directly but you shared
that - - -?---Correct.

- - - office space with him? I'll take you back to that
"Hi team". Did you understand that was the team of people 50
who were engaged in putting together that bid for the work
I mentioned, the CorpTech work?---No, not specifically.

Not specifically. So you had no knowledge that group of
people were engaged in the competitive bid process?---Not
that I recall today for that time.

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JENSEN, C.P. XN

I'll take you, if I could, to the content of the email.
You say there, "I've just had some intel that I thought
I'd channel through to you all for discussion." You say
"intel" there, I take it that means "intelligence"?
---Information.

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I'd suggest to you that "info" is short for information.
Would you accept that "intel" is more likely short for
"intelligence"?---No, I would deem that as information.

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You deem that as information. That's not publicly available information, is it, that you have in your email there?---I'm unaware that is.

1

You're unaware. I'm going to have to ask you: did you think that the information in your email was publicly available information?---If it had been shared, it could have been shared with other people. I couldn't say if it was public or not.

10

You weren't sure?---No.

COMMISSIONER: If it was publicly available, why would you send the email at all? Why wouldn't you assume they all have it?---I don't actually recall why I would send that email other than to pass on information which is a daily occurrence in our industry of receiving information and passing it on.

But you must have thought it's information they didn't otherwise have?---Yes.

20

MS NICHOLAS: It was information that you perceived to be of some worth. Is that correct?---Of some knowledge to them, yes.

Of some worth, too. Is that correct?---Yes.

And was it aimed at yielding some sort of edge for IBM, a competitive edge?---Knowledge for them to - I didn't understand where they were specifically at in the process, so it was knowledge to pass on and for it to be received in whatever manner that was needed to be received.

30

In which process?---Pardon?

In which process? Because I asked earlier and I said, "Did you understand the team to be engaged in a competitive bid," and you said you didn't, or you had no recollection? ---I'm not understanding whether or not they were in the RFI, the RFQ, the RFP, that's what I'm talking about in that process.

40

So when you say "process", you mean a bid process? ---Correct.

Did you send it because you thought it might give IBM an advantage in putting together its bid?---I passed it on, obviously, in the effect that it would have some impact and knowledge to them, and it might mean something to them in whatever process at that stage they were at.

50

So I'll go to the specifics of it, but you sent it, is it correct, because you thought it might give IBM a tactical advantage of putting the bid together?---Might help them, correct.

12/4/13

JENSEN, C.P. XN

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It might let them know where they were placed in the bid process?---Potentially. 1

It might help them avoid any surprises in the bid process? ---Potentially.

It might help in anticipating your competitor's moves? ---Potentially.

And it might give IBM's advice to respond on a point, it might decrease their response time?---Potentially. 10

Now, just going through the points there that you've said in your email, you say, "Just had some intel which I thought I'd channel across to you for discussion." Now, was that the sort of thing that you would commonly discuss in your team meetings that you mentioned earlier?---No, it's not stuff that we would commonly discuss.

Not common?---That was not the structure of our meetings. 20

COMMISSIONER: I'm sorry, I missed the answer?---Sorry, no, that was not part of - it's not the structure of what our weekly meetings were.

MS NICHOLAS: Was it common practice, in your experience, in IBM to obtain intel or information and channel it back to the bid team?---Channel it back to anyone relevant, yes.

So that was common practice. Did you consider that information would be of commercial importance to the team of known recipients?---Yes. 30

Did you consider that the information had some sensitivity to it?---If it was accurate information, it potentially would.

Okay. Do you think that information provided some insight into CorpTech's thinking at the time?---If it was accurate, yes, again, it would. 40

I might go through the bullet points. Sorry, firstly, you say, "It's evidently been fed through CorpTech today." Now, you say "evidently", what evidence were you relying on there?---Well, as I mentioned, I don't recall where the information came from or why it was sent, so I can't answer that question, I'm sorry.

You don't recall seeing the specific document?---No, definitely not. 50

You don't recall receiving an email with those bullet points in it?---Definitely not.

And you don't recall any specific conversations?---No.

12/4/13

JENSEN, C.P. XN

You say you're not totally across at all. Is that correct? 1
---Correct.

Do you remember what you weren't across there?---That means that I wasn't involved in the account or the bid team.

Sure. But nonetheless, you thought you'd send it across because it might make sense to the team of nine. Can I take you to the first bullet point there. You say, "Accenture is sitting at 76 per cent of the scoring out of 100." Now, what scoring are you referring to there?---I don't know. I'm presuming some sort of matrix or whatever the scoring is that was involved in the process. 10

And again, you mentioned a matrix and a process, that's the bid process that we discussed, the CorpTech bid process? ---That's what tender processes involve, yes.

But that's the scoring you're referring to. And then you say under that on the third bullet point, "IBM are perceived to want to offshore more than Accenture, which is why they have a higher rating at this time." Now, what did you mean by your reference to offshoring there? ---Offshoring traditionally means that more basic services or software development, that it can be done offshore cheaper and more effectively than it can on Australian shores. 20

And again, when you talk about the perception of Accenture wanting to offshore less than IBM or IBM more than Accenture, again, that's in that bid process that you mentioned, the CorpTech bid process?---I presume so. 30

That's what that refers to. You say there, "Logica are not bidding." Were you aware that Logica did go on to bid?---No.

Then five bullet points down, you mention Workbrain, Saba and RecruitASP. What are they?---They're components, I understand, of the all of government solutions. They perform different HR and finance capacities. 40

Are they software?---Correct.

Do you have a knowledge of what that software does?---Not intimately, no.

Okay. Can I ask, did you send that email of your own initiative or did you send it on someone's instructions? ---That would have been on my own initiative. 50

Did you run that email past anyone before you sent it? ---No.

Did you mention it to Mr Pagura before you sent it?---No.

Did anyone ever ask you on the bid team of those nine to feedback intelligence or information if you came across it?
---Sorry?

1

Did anyone on that list of nine people ever ask you to feedback information or intelligence if you came across it?---No.

Can I show you a document, please, it's volume 6, page 135?
---Sorry, page 135?

10

135. It's actually a large spreadsheet which hopefully has been supplemented into that bundle there. Can you see at the bottom of the first page, this is a - it's called "SSS Replanning Project, Phase Three Rebuild". And you can see at the bottom at the first page, there's scoring you'll see in the banner that runs across the top and under the section "criteria weighted score", you'll see that Accenture's sitting on a score of 76 per cent. Now, you were shown this document in your interview with the commission. That's correct?---Correct.

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Prior to seeing that, did you have any recollection of seeing that document?---Never seen it before.

Did you ever discuss this document with anyone?---No.

No-one mentioned it to you?---No.

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I'll get you to turn over three pages if I could, please, the last page of the document?---Sorry, what page is that?

1

Sorry, it's the last page, it's not numbered. It's 4 of four?---Well, there is only one here. Thank you.

You can see at the top of that page it says 60 per cent offshore with 30 per cent coming on site, and that is seen as being a witness to IBM's bid?---Correct.

10

Had you, prior to the commission, showing you that document ever seen that particular reference?---No.

Had you ever had discussion about the reference to offshoring in this procurement?---No.

Would you accept that the bullet points on your email which pick up on the 76 per cent in the offshoring that a possible source of that information is the document I have just shown you?--- Potentially.

20

Could I take you then, please, to volume 10, at page 205? Now, did you ever have any dealings with Maree Blakeney of CorpTech?---No.

No. I have taken you to - there's an email at the bottom of page 205, it's from Ms Blakeney you will see to Michael Duke of Logica. It's 24 August sent at 2.38?---Mm'hm.

Ms Blakeney says, "Hi Mike, can you please confirm by return email or by formal notification of Logica's decision to withdraw from the competitive process to select a prime contractor." Do you see that?---Mm'hm.

30

Then if you turn back to page 204, you will see a response from Mr Duke on the same day, 5.57 pm. He says, "Maree, we are still very much in the process and expect to receive the RFO from CorpTech. I am surprised by this email. We had some scenario discussions with Barbara and Terry but at no time did we state that we were no longer in the process. We are still very keen to see if we can fulfill the role," and then skimming down, he says, "Out of interest, who has suggested that we are withdrawing from the process?" You send your email on 22 August where it says that Logica aren't bidding?---Mm'hm.

40

From that email I have just shown you, is it correct that that news appears to take Logica by surprise two days later?---Yes.

50

So IBM knew about that before Logica did two days later? ---Yes.

Thank you. Could I take you then to - sorry, did you ever have contact with Terry Burns? There was a Terry mentioned in that email?---No.

12/4/13

JENSEN, C.P. XN

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Could I take you then to volume 33 at page 36, please? 1
---Sorry, was it page 36?

Page 36, volume 33. Have you got in front of you - it's an email from Terry Burns to Barbara Perrott, 31 August?
---Yes.

I won't read it all but Mr Burns emails - - -

THE COMMISSIONER: Sorry, what page? 10

MS NICHOLAS: Sorry, volume 33, page 36.

THE COMMISSIONER: 36?

MS NICHOLAS: 36.

THE COMMISSIONER: Yes, I'm sorry; go on.

MS NICHOLAS: You see in that email that Mr Burns says 20
that he is concerned that a staff member at an agency had mentioned that they had access to an RFI evaluation matrix which listed vendor's strengths and weaknesses. It says this is due to a document being filed in a folder where the access restrictions were open. Were you ever - in 2007 or around that time - made aware of that information being made available?---No.

It was never raised with you as an issue by Mr Pagura or Mr Bloomfield?---No, I have nothing to do with the account, 30
no.

Can I ask when you sent your email, did you receive a response to it from any of the nine recipients?---Not that I recall, I don't recall anything after that email, no.

So you don't recall receiving any email response? Did you have a discussion with anyone about that email after you sent it?---No.

Were you sitting next to Mr Bloomfield at that time, at that point in time? Not when the email was sent but as at 22 August 2007?---I have no idea where I was sitting. It was a free-form office so you kind of sat wherever there was a chair. 40

But you have no recollection of having a conversation?---No.

You say that you channeled it through for discussion. Was it ever raised at your team meetings?---No. 50

So that discussion never occurred?---It never went anywhere.

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JENSEN, C.P. XN

Did Mr Bloomfield ever raise any concerns with you about the information in your email?---No. 1

Did Mr Pagura ever speak to you about the content of this email?---No.

Did he ever reprimand you for sending it?---No.

Did he ever tell you that it was inappropriate conduct for you to send that email?---No. 10

Could Ms Jensen be shown exhibit 40, please.

THE COMMISSIONER: Yes. I will just get you to read that to yourself, please. It's a compliance email, it's a distribution list, it's not clear who received it but perhaps BCG stands for Business Conduct Guidelines that's referred to, we're not certain. Do you have recollection of receiving that email?---We regularly received emails on that. 20

No specific recollection of that email, but it is on the same date that you sent yours?---No particular recollection of the same day but we regularly receive business conduct guidelines.

Were you familiar with those guidelines?---Yes.

They applied to the work you did?---Correct. 30

When you started at IBM, did you have to do compliance training of any kind?---Correct.

And ongoing training modules?---Correct.

Thank you. You completed that training?---Correct.

You completed the training that was required of you. Did anyone ever communicate to you that your conduct in sending that email may have been in breach of those guidelines?---No. 40

Mr Pagura never disciplined you for sending that email? ---No.

Either informally or formally?---No.

Did you understand that it was IBM's expectation that information of that kind in your email should never have been circulated?---When it's gossip and innuendo that comes across our table every day, if it's confidential information like the documents you have shown me, had it been passed over then that is definitely in breach but when it's through general conversations and it is gossip - or information like that, not founded in any fact, then no, that's not considered a business conduct issue. 50

12/4/13

JENSEN, C.P. XN

THE COMMISSIONER: But you're not saying, are you, that the contents of your email weren't based on fact. You must have thought that what was in there was accurate otherwise you wouldn't have sent it on. Isn't that right?---I thought it was interesting information because I wasn't hands on in the account so I couldn't categorically say what it meant to the account team because I wasn't involved.

1

I understand that but you told Ms Nicholas already that you thought the information was commercially important to the bid team?---Correct.

10

And you wouldn't have passed it on if you didn't think it was correct. If you thought it was nonsense, would you have sent it on to them?---We do occasionally send on information to the team because to them it will mean something or not and the fact that it wasn't raised again afterwards I presumed it meant nothing and it didn't go any further so it wasn't relevant but unless we see things in fact, then there is so much gossip and innuendo in the industry, if you believed everything that you heard - - -

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COMMISSIONER: Where's the gossip and where's the innuendo in what you set out in your email?--Well, again, as I said, because if it's not seen as hard facts then - - - 1

But it is hard fact, isn't it? Accenture are sitting at 76 per cent scoring out of 100 per cent, that's a very precise fact, isn't it?---You often hear precise information, because information like that, it sounds precise, but I have not seen any document and it wasn't a conversation, it could have come from multiple conversations with people going, "I heard so and so had this," partner information, different numerous people in the industry. I do not recall one specific person that went, "Here's this information, Cheryl." 10

There are six quite precise pieces of information or intelligence set out in your email, aren't there?
---Correct.

Although, it's simply expressed, there are six items of information precisely expressed?---Correct. 20

You wouldn't have remembered that, would you, from a conversation in general terms. You must have been given that in a form that allowed you precisely to summarise it as you did?---I categorically did not receive any information or see any document that gave me that information.

Well, tell us where you got it from?---I honestly do not recall where I got it from, all I can understand is that through my hundreds or numerous meetings weekly with partners and different people in the industry is that I've gathered this intel, and at the end of the week or the day or whatever passed it across and said, "Here, I've got a few bullet points, it may or may not mean something to you, it means nothing to me." 30

And you remembered this, did you, over a course of a week from various conversations?---I don't remember who I got the information or what meetings it was from. 40

Are you telling me that this is the distillation of a week's worth of gossip?---I don't know. I can't recall if that was a week's worth of gossip or not, it could have been a month's work, I honestly do not recall.

And you remember it over a month, did you? You remembered this information, this precise information over a course of a month?---I may have written it down, I may have written information, different points down and then passed it on once there was a few bullet points of information that maybe it's worthwhile forwarding on. 50

MS NICHOLAS: You had no recollection of being disciplined for sending this email, do you?---No.

12/4/13

JENSEN, C.P. XXN

Either formally or informally?---No.

1

It's right that you would remember being professionally disciplined. Is that correct?---Correct.

It's the sort of thing that an HR representative may be present for?---Correct.

You have no recollection of that taking place?---No.

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That's the evidence-in-chief.

COMMISSIONER: Thank you. Mrs Jensen, I don't want you to be under any misapprehension. On its face, your email shows that you had access to confidential CorpTech information which IBM should not have had access to and should not have known about. If you cannot give me an explanation for how you came by it other than by some unauthorised access to the CorpTech information, I am entitled to infer that's how you got it, and I may do so. I want you to have delusions about that. Can you tell me or give me any better explanation of the source of this information?---No, I can't, Mr Commissioner.

20

All right. Thank you. Yes, Mr Doyle? Mr MacSporran, I'm sorry.

MR MACSPORRAN: Thank you. Ms Jensen, yesterday we covered matters, we know what you did with this, we know you sent it on to that team. It seems from what you've already told us that it wasn't uncommon for you to receive information like this which you would routinely pass onto the relevant team or person you thought could use the information commercially. Is that fair to say?---That's correct.

30

Do I take it that it was never a thought that you had to report this to CorpTech, for instance?---No.

Was that the case whenever you received information like this you didn't seek to or believe you should report it to the person's whose hands it was confidential?---No.

40

Any reason for that, you just didn't think there was a need to report this?---If it was factual information and it was a document that was shared, for example, then that, I would completely say, is inappropriate and report it to the client, but in this case it wasn't and I can't specifically recall if it 10 people I got snippets of information from.

50

I won't waste time going through it again, you've been taken to the dot points, it's very specific information that you must have understood was highly confidential?---It was not founded in fact, so - - -

12/4/13

JENSEN, C.P. XXN

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You didn't have a basis to say it wasn't found in fact, did you?---No. 1

No. Thank you.

COMMISSIONER: Mr Doyle?

MR DOYLE: Mr Cregan's turn.

COMMISSIONER: Yes, Mr Cregan. 10

MR CREGAN: Ms Jensen, as a client executive you would have gone and talk to people, you were just telling the commission. How would you go about your job as a sales executive, what does that involve?---It involves arranging meetings with all different levels of my clients, going and talking with them, building relationships, understanding what their pain points are, looking at the components of technology that they own of IBM's, for example, and how we can bring greater efficiencies with their current investment and what they own into their business. 20

In talking to these people there would be exchange of information, essentially, they'd tell you what they need, what they have, what they want - - -?---Correct.

- - - and you'd assess that?---Yes.

What sort of conversations would go on, what sort of information would that give you, you said a few IBM components they own, pain points. Can you talk a little bit about pain points, what are those?---Certainly. For example, it might be that they're trying to consolidate some storage around the state into a central depository, and they would talk about all the business reasons and justifications as to why. It might be that they have some key metrics at a state level, at a ministerial level that required them to access information faster, so we would work with them and understand those pain points around how they currently operate, how they currently do things and what the end goal state of efficiency looks like for them. 30 40

So a client executive is, in essence, an account manager? ---Correct.

You don't actually deign the technical solution?---No.

You don't design the document management system and that sort of thing?---No. 50

You'd pass on whatever that client had told you to the relevant group?---Correct.

And that's standard practice?---That's my day-to-day job, yes.

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JENSEN, C.P. XXN

All right. You said that you weren't in the services group. Is that a separate group in IBM?---Correct. So we had three divisions: there was the hardware, the software and the services division.

1

And where were you placed?---I didn't sit within any of those roles, so as a client exec we kind of sit above that knowing that relationship and strategy and then we pull in the relevant people and information at the relevant times.

10

It's fair to say your role essentially was a sales role? ---Correct.

And everyone you would meet knew that?---Yes.

They were talking to you because they wanted to be sold? ---Yes.

They knew that you were from IBM?---Correct.

20

You were never contracted into CorpTech?---No.

You were never seconded to CorpTech?---No.

You were never seconded to Queensland Health?---No.

Or another government agency?---No.

You were always, quite separately, an IBM sales representative?---Correct.

30

You've been asked a little bit about your relationship with Lochlan Bloomfield. Can we just go through that a little bit? You said you went to brainstorming sessions with him, I think, in your interview. Can you talk a little bit about what that involved?---So that would look at, for example, we would have done things in other departments that have been successful, case studies, and how we can take that to other departments with similar pain points. Like, understanding and talking with my clients about their pain points, we would share that across the collective team to be able to share those case stories and experiences and say, "Is that a potential fit for this client's pain point?"

40

You would take that information from these brainstorming sessions to the other sessions back to the clients? ---Correct.

So you were the conduit information from IBM and from the client back to IBM?---That's correct.

50

Was there any difficulty about that? Has anyone had any illusions as to what you were doing?---No, not at all.

You've been taken to this email. Do you have the exhibit in front of you?---Yes. 1

Exhibit 32. You sent it and it says, "Hi, team," at the start. It was a project team in the services team?
---Correct.

And this is not a group you're in?---No.

And in that services team, it services the client of work you would sell, generally?---Not into Queensland Health. 10

All right. What were you selling into Queensland Health?
---Predominantly hardware with the expansion of software opportunities at that stage. Predominantly at that stage it was hardware only.

And these desktop computers, are they servers or what kind of hardware?---Servers and storage. We didn't have a strong relationship with Queensland Health previously, so it was still very much in the building phases and expanding out our products. 20

I see. And so as part of that process, you would need to go and find out where people needed hardware when they were running out of storage, that kind of thing?---Correct.

And as part of these conversations, you've mentioned before that you would hear a lot of gossip?---Correct. 30

How would that take place?---It could be through a number of avenues. I mean, you hear it of a regular basis. It could be through competitors, sometimes your partners, depending on what the situation is, it could be through clients, it could be through other people that work in the IT industry, and you always take it with a grain of salt because there is just so much of this that flows through the industry on a daily basis, so it's very common practice that you hear information. 40

Okay. Is it always correct?---No.

Is it often correct?---No.

So generally you'd hear things - and you might recall the kind of information. It could be right, it could be wrong?
---Correct.

How often did this happen, that you'd hear these sort of tidbits of information?---Regularly, at least a couple of times a week. 50

And depending, either send it back or not, or - - -?
---Correct, yep.

Now, you've been taken to this email, which I've managed to put down, and you've said in the email, "This is evidently being fed through CorpTech today." You were never at CorpTech?---No. 1

Did you ever have a CorpTech computer log on?---No.

Did you ever have access to their computer systems?---No.

At Queensland Health, did you ever have a Queensland Health log on?---No. 10

Did you have access to their computer systems?---No.

Would you have accessed their computer systems?---No.

Would you have accessed CorpTech's computer systems?---No.

Okay. The people you were talking to in your job weren't CorpTech people?---No. 20

They were Queensland Health people?---Correct.

So it's likely that when things have been evidently fed through CorpTech, you're probably speaking to someone at Queensland Health, one or more people.

COMMISSIONER: You can't remember, can you?---No, I can't. It could have been a partner, it could have been somebody else in the industry. I couldn't assume that it was somebody from Queensland Health. 30

I'll put it another way. When you say "evidently through CorpTech", knowing that you weren't contacting people at CorpTech, it's likely it wasn't someone from CorpTech? ---Correct.

It was someone else?---Yes.

And that person may or may not have been telling you something accurate - - -?---Correct. 40

- - - in your view. You didn't see the document that Ms Nicholas took you to?---Never seen it, no.

The matrix document. And had you seen that document or had you been given it, your evidence is that would have been a problem under the business conduct guidelines, it would have been reported?---Correct. 50

So in terms of bits of gossip that you'd report back that would happen in an email like this, you'd send back, we've heard this?---Correct.

Similarly, you'd send back emails about client requirements and things you heard from clients?---Yes.

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Maybe to the services team or a tech team, or some other team?---That's right.

1

I see. Now, it was suggested to you that this kind of information might be difficult to remember over a long period. You don't remember how long you would have had this, do you?---No.

It could have been an hour?---No idea.

10

Okay. It could have been an hour?---It could have been.

It could have been a day?---Could have been a week.

Okay. Now, Ms Nicholas asked you if you were aware of an RFI, RFP, ITO process. That's an awareness you now have. Is that right?---Correct.

At the time, were you aware of the process?---I wasn't aware of where they were at in the process because I wasn't involved in it; I was too busy managing my own accounts, so I wasn't intimately involved in where they were at in the process.

20

You're aware they were bidding for some work, they were trying to get some work to CorpTech?---Correct.

And that involves meetings and things like that. Would that be about the extent of your awareness or were you more aware than that?---I knew there was a tender but I didn't know where they were at in the tender process. Yeah. I really have no idea.

30

So when you use the terms "RFI", "RFP", "ITO", those are terms you've become aware of recently and by "recently" I mean as a product of this commission?---Yes.

At the time, you just knew there was some bids going on? ---Yes.

40

I see. So as to - you were aware of some bids going on. Now, when you report back information like this, Ms Nicholas was suggesting some ideas to you to stop you from being surprised, of IBM from surprised, you'd know competitors' moves, that sort of thing. Would you have put that much thought into this?---No.

This is just passing back gossip, essentially?---Correct.

As far as you're aware?---Yeah.

50

I see. And in terms of this gossip, it was something that would be problematic that would have been raised by your boss?---Definitely.

And that's the way it happens at IBM, your boss would raise it?---Absolutely. 1

All right. And that's Rob Pagura.

COMMISSIONER: Sorry, Mr Cregan, I missed the question.

MR CREGAN: If there had been problems with this information being passed back, that would be raised by her boss directly. 10

COMMISSIONER: Thank you.

MR CREGAN: That's right, isn't it?---Correct.

That's Rob Pagura?---Correct.

So this is the kind of information that goes back and forth?---On a regular basis, it's the industry, yes, so it would not be deemed as critically important and I do not believe otherwise it would have been raised with me. 20

Had you forwarded back a matrix, he would have called you in?---Yes, and had all of the information and the matrix been in and my bullet points had been accurate, correct, it would be definitely an issue.

In fact, as Ms Nicholas showed you, the information was wrong?---Correct. 30

Logica were still bidding, evidently so, and that's exactly the point you were making, sometimes you would hear things that were right and sometimes they were wrong?---That's right.

No further questions. Thank you, commissioner.

COMMISSIONER: Yes. Ms Nicholas, any reply or re-examination? 40

MS NICHOLAS: Just one point. Mr Cregan just said the information was wrong, that Logica wasn't bidding at that point. Would you accept - I took you to volume 10 at page 205, which you might take up again, if you could, please. Have you got that in front of you? Now, Ms Blakeney during the ITO process was the nominated point of contact between CorpTech and the tenderers, so if the tenderers had a question, they'd address it to Ms Blakeney and if CorpTech had a question, Ms Blakeney would funnel that question to the tenderers. You send your email on 22 August. Two days later, on 24 August, Ms Blakeney, communicating on the part of CorpTech, says, "Could you please confirm that you are no longer in the bid? Logica, could you please confirm Logica's decision to withdraw from the bid." Do you see that, at the bottom of page 205. And 50

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on the same day, Mr Duke, who is leading the bid from Logica comes back and says, "We're still very much in the bid. We're very surprised to learn that." It's news to them on 24 August. And, "Can you confirm who suggested we withdraw from the process?" Now, would you accept that when you sent your email on 22 August, you say, "Logica are not bidding. CorpTech believes that Logica are not bidding"?---Mm.

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Looking at page 205 and Ms Blakeney's email to Mr Duke, would you accept that what you put in your email is consistent with Ms Blakeney's email of 24 August?---Yes.

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COMMISSIONER: Yes. Ms Jensen, you're excused, thank you? ---Thank you, Mr Commissioner.

WITNESS WITHDREW

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THE COMMISSIONER: Mr Flanagan?

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MR FLANAGAN: I call Robert Pedler.

PEDLER, ROBERT KINGSLEY sworn:

THE COMMISSIONER: Mr Flanagan?

MR FLANAGAN: Would you give your full name to the inquiry, please?---Yes. Robert Kingsley Pedler.

10

What is your current occupation, Mr Pedler?---I'm partner with a company called ERM, responsible for information solutions.

Thank you. Mr Pedler, have you provided a statement, dated 10 August 2013 which is n eight-page statement to the inquiry?---Yes, I have.

Would you look at this document, please?---Thank you.

20

Is that the statement that you have provided in these proceedings and you have declared the contents true and correct to the best of your knowledge and belief?---Yes, I have.

Can I just take you to paragraph 24 of your statement.

THE COMMISSIONER: Is it being tendered?

30

MR FLANAGAN: I will tender it up before I make one correction, if I may.

If you look at paragraph 24, this is in the context of things you are stating that Mr Burns never indicated to you. In paragraph 24, you said Mr Burns indicated to me that there was no sacred cows within CorpTech. Is that a correct statement?---That's my - that's my correct statement, yes.

40

All right. Do you actually have a recollection of Mr Burns indicating to you that there were no sacred cows within CorpTech?---Specifically quoting the word "sacred cows", that's my interpretation of the gist of the conversations as opposed to specifically remembering those two words.

All right, thank you. Just excuse me for a minute. I tender that statement.

THE COMMISSIONER: Yes. Mr Pedler's statement is exhibit 49.

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ADMITTED AND MARKED: "EXHIBIT 49"

MR FLANAGAN: Mr Pedler, were you employed by SAP between April 2000 and August 2008?---That's correct.

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During your time at SAP, you had responsibility for the sale management leadership for SAP in Queensland Health and other territories?---That is correct.

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You performed a significant amount of work for the Queensland government?---My company did, SAP did, yes.

Yes. What was your understanding and involvement with the Shared Services Initiative for the Queensland government between 2005 and 2007?---So in 2005, my company, SAP, was awarded the software contract for the provision of software for the whole of government Shared Services. During 2005 to 2007, my company had a number of consultants and resources in there helping the government implement and I had responsibility as the branch manager for the ongoing oversight of that relationship.

10

Did you play a role in the bid in 2005 resulting in CorpTech's SAP software selection for the government agencies?---I did.

20

Was that an IBM-led consortium?---No, it wasn't. So if I may elaborate - - -

Yes, could you?--- - - - there were a number of bids for software for Shared Services. SAP had our own bid for a full suite of software. IBM had a bid that included SAP software and other. I think those were the other two SAP bids that were submitted at that time.

30

Following that bid, that is your bid, SAP became the software provider for all of the CorpTech business systems?---Correct.

As a consequence of SAP winning that work, did you have meetings with CorpTech representatives such as Mr Bond and Mr Hood and Barbara Perrott about the software and issues surrounding the implementation of that software?---I would have had, yes.

40

How often would you meet with Mr Bond, for example, in relation to those software issues?---I think during the course of that period we had a regular I believe what was a fortnightly scheduled meeting in the calendars with the others, Ms Perrott. I think it was potentially a monthly meeting and Mr Hood, similar.

All right, thank you. Now, did SAP continue to work on the Shared Services Initiative in various capacities between 2005 and 2007?---Yes.

50

Could you briefly explain to the commission what those capacities were?---Okay. So as a follow on from the software bid, CorpTech went to market for service organisations to provide support to them to implement the solutions and we were a provider of specialist consulting

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resources to support the software and provide expert knowledge around the software.

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And in terms of the implementation of the software, however, did you partner with Accenture?--No.

What was the relationship between the SAP representatives working at CorpTech and Accenture representatives working at CorpTech?--So Accenture were awarded during that period of time, were awarded primarily responsibility to support CorpTech to implement the HR payroll systems for Shared Services and - - -

10

All right - go on?--As SAP, we provided some specific deep consulting knowledge around our solutions so it was an overlap, it was a collaboration, there was no formal agreement to partner or anything else.

In that sense when SAP was carrying out its work at CorpTech, were you ever viewed as a systems implementer? --I don't believe we were. We were seen as the deep product and solution knowledge people but we were not seen as primary implementers integrators of software.

20

Now, your statement has a number of annexures to it. Can I ask you to take up your statement and turn to annexure B? --Yes.

This was an invitation through Elizabeth Russell of Queensland Treasury to attend a meeting with the deputy under-treasurer, Mr Ford, which was set for 30 April, 3 pm. Correct?--Yes.

30

Do you recall this meeting?--I do - I do have a recollection but I have struggled to think what the specific agenda for the meeting was.

All right. Do you recall that Mr Bloomfield from IBM attended?--I do - I do believe that to be the case, yes.

40

If I could assist you, do you have recollection that at this meeting, you met Mr Terry Burns?--I do not recall him being a part of that, I can't say he was or he wasn't, I don't recall him being a party to that meeting.

Now, at one stage at least, you became aware that Mr Burns was conducting a four or five-week review in relation to the Shared Services Initiative for CorpTech?--Correct.

Did you have involvement with Mr Burns in relation to that review?--I don't believe we were invited to participate in that review.

50

Do you have any recollection in the course of May 2007 of meeting with Mr Burns in relation to his review?--I don't - I don't have a recollection of that, no.

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All right. Can you do this for us, then?---Yes.

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Can you outline when you first met Mr Burns and the nature of your meetings with him, including where they took place, for example, were they face to face, were there other people present, were they over coffee and what was discussed?---Look, I can't recall the specific first meeting, however, the meetings that I do recall with Mr Burns were quite formal in-house meetings and the would have been held within the CorpTech location. I believe, at that stage, it was 80 Edward Street. They most likely would have been one to one, most likely.

10

Can you recall the topics of conversation?---Look, the topics would have been, and my recollection at the time is that the topics would have been our, SAP's, concern about the progress or lack there of in terms of the implementation and deployment of our software. We were concerned about, obviously, the reputation impact for SAP, we were keen to obviously support CorpTech and assist to make sure that at the end of the day they got a good implementation and addressed the obvious issues that were present.

20

When you say "concerns about SAP's reputation", is that in relation to its software?---Absolutely.

And in relation to how its software operated in terms of the government roll-out of the Shared Services Initiative? ---Correct.

30

In that context, can I ask you to test your memory: what did you discuss with Mr Burns in relation to the SAP software?---Look, again, I'm struggling to remember the detail of nearly six years ago of conversations, but I can be reasonably confident that the themes would have been concerned about the lack of progress, concern about the amount of effort and time and money that was being consumed, and, really, the lack of tangible outcomes around that, and concern for the perception of the Queensland government and certainly for my company. At the end of the day, it will be seen as an SAP project, good, bad or indifferent.

40

All right. You've told us that SAP did not play the roll of systems implementor for CorpTech in relation to its own software?---Correct.

That was carried out by Accenture, correct?---No, I don't - okay, if I may just step back and look at it?

50

Yes?---The approach that CorpTech initially took, this is before the 2007 position, the approach that CorpTech initially took was that CorpTech would take really the prime responsibility for the project, the implementation, the

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outcomes and invite organisations like mine and Accenture and IBM and Logica CMG to provide resources to assist, but at the end of the day the prime responsibility for the project deliveries were vesting within the government and CorpTech at that time. So they were taking, if you like, the prime project manager responsibility. The flipping point in 2007 was that the procurement was then looking to shift prime project program responsibility out of CorpTech and into an organisation like mine, Accenture, Logica, IBM, which was the purpose for mine of the procurement activity that went in. A long-winded answer to say I think it was a tipping point to do things differently.

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In terms of your involvement with Mr Burns and your one-on-one discussions with Mr Burns, you've told us already that you don't recall having meetings with him in May in relation to review. Do you know when your meetings with him commenced in terms of what you described as moving to a prime contractor?---I don't specifically remember meetings in May, but I can't be sure that I didn't have meetings in May. I do know in the lead up to the actual release of the request for proposals that came out that closed around July, August, we would have had necessarily a number of meetings to make sure that we were in tune with the thinking that Mr Burns was bringing in terms of the change of focus. I can't say I didn't meet with the guy then but I just can't remember the specific meetings.

20

All right. Can you tell us: were you physically located at CorpTech?---Personally?

30

Yes?---No.

Did you have representatives who were physically located at CorpTech?---Yes.

Did they include Ms Megan Janke, J-a-n-k-e?---Janke, yes.

Yes, Janke?---Yes.

40

And did it also include a person by the name of Mr Chris Peck?---Peck?

Peck?---I certainly know Megan was at CorpTech, and I believe Chris played a role in CorpTech as a part of the technology activities, so, yes.

Are other people from SAP who were physically present at CorpTech at that sort of management level?---Look, there would have been at a point in time between 2005 and probably 2007, we had up to 20 consultants in at CorpTech in various key roles. My recollection, and, again, I'm hazy in terms of timing, but we had Megan and others in project or team leadership roles in at CorpTech.

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But you weren't physically present at CorpTech?---No, 1
personally our office was in Mary Street.

Right. Thank you. Do you have any knowledge that you can
give this commission of one-on-one meetings that you have
knowledge of, of one-on-one meetings between Mr Chris Peck
and Mr Burns and/or Ms Janke and Mr Burns?---No, look,
being onsite in the same building, certainly Megan was in
the same general building and I have no view of when they
might have had one to one meetings formal or informal 10
during that time, just no visibility of what might have
happened during the course of a day.

We know that SAP ultimately put in a proposal in relation
to the RFP, and they also responded to a request for
information that came earlier in July or June?---Yes.

Sorry, in July, and then you responded via proposal - - -?
---Correct.

- - - the RFP and then you didn't proceed further after you
had been notified that the two top bids in terms of
evaluation after the RFP were Accenture and IBM?---Correct.
But at the time that you were responding to the RFI and the
RFP, SAP was interested in the position of prime
contractor. Yes?---Absolutely. 20

It's the case, isn't it, that both Megan Janke and
Mr Christopher Peck, they answered to you, you were their
immediate supervisor?---Not as a direct supervisor, but I 30
was certainly the general manager for Queensland so had
oversight indirect responsibility.

Quite. And you led the primary contract bid for SAP in
relation to both the RFI and the RFP and in terms of
presentations to CorpTech and Queensland Treasury official?
---As the Queensland executive, yes.

If there was a conversation of moment between Mr Burns and
Mr Peck, or Mr Burns and Ms Janke, would you have expected 40
in the ordinary course of the operation of SAP that those
conversations would have been reported back to you?---I
would have expected so, yes.

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Yes. You would be - - -?---Formally or informally.

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Formally or informally. Yes?---Correct.

But in any event, do you have any recollection of meeting with Mr Burns one to one quite regularly for the purpose of discussing the possible prime contract role of SAP?---Look, I would have met with Mr Burns and on two fronts. One in terms of the interest in the business going forward.

10

Yes?---But secondly in terms of the ongoing and enduring relationship with Queensland Government from our point of view.

Yes. I want to come to that then because - - -?---Sure.

- - - you've told us already that prior to Mr Burns coming on site, you had regular meetings with Mr Bond and some regular meetings with Mr Hood and Ms Perrott?---Yeah.

20

What were those meetings generally in relation to?---So I think Darrin - and again, my timing is vague here, but Darrin actually had overall responsibility for the application project teams, so as the - in his role, in Shared Services, he had team leaders that were running the various projects and therefore my meetings with Darrin were to gauge from his perspective progress issues, activities, and where I might, as SAP, need to escalate back into my organisation software issues and solution issues.

30

Yes?---So that was the theme of the conversations with Mr Bond. A similar theme with Philip Hood; whereas, Philip Hood for CorpTech had responsibility for the existing implementation of SAP across the Queensland Government, so Bond was new, Hood was existing and obviously existing was going to transition to the new at some point in time. So the focus with Hood was more about business as usual issues, similar thing.

Now, we know that Mr Burns completed his five-week review at or about the end of May 2007?---Right.

40

What did you understand his role thereafter at CorpTech? ---So Mr Burns then - I can't remember the title but, really, it was - I saw Burns as having a transitional role from: this is the way we've been doing things. This is how we're going to transition into the new world of CorpTech transitioning to an external to finish off the project. So I saw Burns as having that kind of role.

50

Now, you've described the type of meetings you would have with Mr Bond?---Mm'hm.

Did you continue to have those meetings with Mr Bond after Mr Burns had completed his May 2007 review?---To the extent that the project was still active and going forward, yes.

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All right. Did you have meetings with Mr Burns covering the same or similar topics that you had previously covered with Mr Bond?---Look, I believe that Burns was not involved so much in the operational project program activities at that point in time, so it was more around the transition.

1

So I'd like to know - - -?---Different (indistinct)

- - - in the relation to that transition, how often you met with Mr Burns after 30 May 2007?---Yeah, look, my - again, my recollection is that it was probably, at best, fortnightly. It was - we would have endeavoured to have a regular conversation, obviously keenly interested in where he was seeing it going, but I would - my recollection is we would try to do it regularly and regular would have been fortnightly.

10

Can you tell us who else was present, if anyone, at these meetings with Mr Burns?---Look, it's - there is potentially - there are potentially other people that may have joined those meetings, but it probably was one to one.

20

All right. Can you tell us where those meetings took place?---So, again, as I said earlier, my best recollection is that they were in house at CorpTech in 80 Edward Street.

And did Mr Burns have an office at CorpTech?---Yes, I believe so.

To your knowledge, did he share that office with anyone? ---I don't know.

30

Do you know a Dianne McMillan from CorpTech?---I know the name.

All right. Thank you. Were some of these face one on one meetings with Mr Burns in relation to the change, if you like, in proposals, did you ever have meetings outside the CorpTech building, such as at a coffee shop?---It's possible, but in the case of Burns, it's possible but not the norm.

40

Right. Can I come then to the nature of your discussions with Mr Burns and what he said to you or what you said to him about the new direction that CorpTech was taking?---So clearly the approach pre May/June 2007 had achieved some good outcomes. It had cost more than everybody had expected and clearly it was unsustainable, and therefore it would have been discussed during those meetings the view that the model had to change and I guess that's the key theme of my recollection of those meetings.

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Was Mr Burns making it clear to you what he was seeking from SAP in relation to that transitioning? Sorry, when I say "transitioning", I mean moving into the new model?---I

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don't believe that he ever specified that we should do A, B, C or D, or present. My view is that we were presented with, as I said, as we started, the sacred cows. What had gone in the past was not in any way to influence the good ideas, the different approaches, the different models, and therefore as the owners of the software, if we had some thoughts, ideas, some recommendations as to how CorpTech, Queensland Government should do things differently to go forward, then we should base our proposal around that.

1

And you've just given your last answer, is that your recollection of what Mr Burns said to you in relation to encouraging SAP to participate in this procedure?---I don't believe he was prescriptive in what we should do. I don't believe that he was prescriptive in the fact that we should actually bid, but right throughout we had the view that things could be done better in terms of the project and therefore we were very keen to put a bid forward.

10

All right. Did he ever encourage you to your own recollection to take on the role of system implementer rather than the role that SAP had previously played, which was providing discreet advice and discreet tranches of work on software issues?---Look, I don't recall a specific invitation or advice, or recommendation that we should do it. In preference to what we've been doing as a software specialist organisation, I do and I made the point in my statement, I do think there was a perception that we were the owners of the software, we had deep specialist knowledge, but we weren't necessarily perceived as the systems integrator.

20

Yes, and assume that for the present purposes Mr Burns knew that. Did he say anything to you about your future role, given that you were in fact the owner of the software?---No. Look, that is a really hard question to answer six years, or nearly six years, on.

30

Quite, but it is at least in the context that you knew that CorpTech were moving to or gradually moving to the prime contractor role. Correct?---Yes.

40

And SAP ultimately did put in a request - sorry, a response to the request for information and put in a substantial response to the request for proposal. So SAP at one stage did view themselves as possibly stepping up to the mark of being the systems implementer. Correct?---Absolutely. We believe that we could do that.

All right. Did SAP have resistance to entering into that role at all?---Do you mean internally?

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Internally, yes?---From my organisational point of view?

Yes?---I don't believe that the location we had any resistance to doing that.

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I'd like to get a feel for the nature of the communications between you and Mr Burns, and for that purpose I want to show you some internal emails between IBM representatives where they've identified the communications between them and Mr Burns?---Sure. 1

I just want to ask you, when you read these three things, and I'm only going to show you three documents in this regard, I want you to look at them carefully and tell me whether some of the topics covered in those emails were covered by Mr Burns with you in the conversations you've described. Can I first of all take you to volume 27, page 230?---Page 230? 10

Page 230 of volume 27. Now, Mr Pedler, as you read this, this is actually an email from Mr Bloomfield. Now, can I just stop there. You knew Mr Bloomfield as at this time, didn't you?---Yes.

How long had you known him for?---Look, I knew Mr Bloomfield when he was at Accenture, so it would have been at least a year prior to this. 20

All right. And you also knew Mr Porter from Accenture? ---Correct.

And how well did you know Mr Porter?---So I knew Mr Porter from early days, we were joint representatives or we were representatives on the Australian Information Industries Association Queensland Committee. We would have known each other for a number of years prior to this period. 30

All right. Did you socialise with Mr Porter at all?---Not outside work, no.

What about socialising with Mr Bloomfield?---No, not outside.

Would you describe either person as a friend?---Not in that sense, we were colleagues. 40

All right. And you've had a good working relationship, given that you're from different companies - - -? ---Correct.

- - - but you had a good working relationship both with Mr Bloomfield and with Mr Porter?---Yes, I probably had a better relationship with Porter than Bloomfield.

All right. Thank you. You were aware, weren't you, being in the industry, that Mr Bloomfield had left Accenture in or around February 2007 to move to IBM?---Yes. 50

And that was a well-known fact?---Yes.

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And it was also a well known fact that he had been appointed in IBM to its government services branch?---Yes.

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Thank you. And in your own conversations with Mr Bloomfield, did you appreciate that he was seeking to grow IBM's role in the Shared Service Initiative roll-out? ---I think that goes without saying.

Quite. Could you just read this email, then. It's from Mr Bloomfield to other persons at IBM. It's on 2 May 2007, so it's shortly after you've had that meeting with the deputy under-treasurer?---Mm'hm. Okay. I've read that one.

10

Now, can I ask you this general question - - -?---Mm'hm.

- - - is that the nature of the communications you had with Mr Burns in at or about the time that he was commencing his five-week review?---Absolutely not.

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Why do you say absolutely not?---Because we were never provided that kind of impression that we were that kind of trusted future organisation. I personally never had that kind of closeness with Mr Burns and I was never given that kind of impression from an SAP perspective.

You've accepted, however, that Mr Burns did encourage SAP to look at itself more as a systems implementer and move up to the prime contractor?---Yeah. Look, I think my earlier was that we were not encouraged to do it but we were not discouraged from doing it, so I think there's a subtle difference there, we were not discouraged.

30

But as at the beginning of his review, did you have any conversations with him, I know you can't recall any May conversations but did you have any conversations with him of this nature?---My relationship with Burns would not have been at this level at this time at the start of May, so - well, I'm sorry, just please repeat your question.

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COMMISSIONER: I think you've answered it.

MR FLANAGAN: You've answered it. Did you - in the entire course of your meetings with Mr Burns, did he ever strongly recommend a position that SAP should take in its approach to the new direction that CorpTech were taking?---Yes. Look, go back to - I don't believe the messaging that we were given was that prescriptive. We were of the view, collective view, that what had gone before was not working, was not sustainable and therefore this was the opportunity and perhaps there was only one more opportunity for them and partners to get it right, so bring back your best ideas.

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All right. At the stage that this conversation takes place, Mr Burns's review had just begun, it's 2 May 2007?
---Mm.

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Do you know what - sorry, I'll withdraw that question. May I then show you the next document - sorry, I'll just - before I go away from there, you deal with this in your statement, but I'll just ask you this - - -?---Please.

- - - it says here that, "Terry's almost at a stage that he is coaching us and is already strongly recommending the position we should take in some areas." Did Mr Burns, in his conversations with you, ever create in you an impression that he was seeking to coaching you or was strongly recommending the position that you should take in some areas?---I don't have that recollection at all during that period.

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All right. Mr Pedler, did you know Mr Burns's background?
---I didn't know. I didn't know, I wasn't aware that he had a long history with IBM earlier, so if that's the question, no.

20

Had he ever described himself to you in the meetings you had, the fortnightly meetings you had as an IBMer?---No.

Did he ever give you the impression that he was of the view that IBM was grossly under-represented in the Shared Service Initiative roll-out?---I don't recall that, having that impression or being given that view, no.

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All right. Did he ever say to you or indicate to you that the CorpTech program needed a significant increase of the involvement of IBM?---Again, I don't have a recollection of those statements or that intent.

1

More importantly, did he ever indicate to you that he was of the view that the CorpTech program needed a significant increase of the involvement of SAP?---No.

May I take you to volume 33, page 424?---Is this the - - -

10

It will come to you?---Different? Volume 33?

33, page 424?---424?

424?---Yes.

And it's the second email on that page, you'll see there that it's an email from Lochlan Bloomfield to a number of IBM people, dated 28 June 2007. It's before either the request for information or the request for proposal has gone out, that is, neither Mr Burns or Mr Goddard had given their presentation to vendors in relation to the way forward. Just note the time, if you would - sorry, note the date, not the time - and then can I ask you to read, it's from the second paragraph of that email to the end and over the page?---Okay, I've read that email, thank you.

20

All right. Again, as at the end of June 2007, did you have any conversations with Mr Burns of this nature?---No.

30

Was there anything in the nature of your relationship with Mr Burns that would have made you feel sufficiently comfortable to be discussing the way forward for SAP in similar terms as is discussed here?---The relationship was not at that level that we were shared anything like that, we were proceeding on the basis that we did have a good story to tell. Obviously, the feedback indirectly there is that we were not seriously considered at that point in time as playing a role in the future.

40

Can I just stop you there? When you read that, why do you say that, as you read that, that you thought you weren't being considered seriously for a future role?---I think the comments there about "Accenture and SAP perceived to bring nothing new to the table, frustration," would imply to me that we were probably not well placed at that point.

Tell me this: in your conversations with Mr Burns, did he ever say to you as the general manager of SAP, "I want innovative ideas from SAP for the solution to this dilemma," or words to that effect?---I believe that was the message and I believe that's what we were working forward with the notion of providing a new start.

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Did he say to you though in your conversations with him that SAP was not coming up to the mark in terms of providing innovative ideas?---I don't recall that feedback.

1

Did you know what the existing budget or the remaining budget was for the Queensland government to roll out the Shared Services Initiative?---I believe that we interpreted that there was about \$100 million, but I don't believe that we were ever given \$108 million left to do the job.

10

Were you ever told by Mr Burns that the remaining budget is \$108 million - sorry, that:

The under-treasurer needs to see that this money has been put to great effect and that the SS program is heading in the right direction, and, if so he is then prepared to go back to parliament for more funding.

First of all, were you told that specifically by Mr Burns? ---I can't be sure, but I don't have a clear view that it was, but I can't be sure that I wasn't.

20

Can I ask you a more general question?---Please.

Put Mr Burns aside, did you know that as a fact at the time just from what was knowledge in the market, that is, that the under-treasurer, if he saw that the existing budget had been used well for the roll-out would go back to parliament to obtain more money, or to seek to obtain more money, of course?---My expectation is that if they started to get momentum going in the right direction then there is always the opportunity to go and argue for money when they're showing value for money.

30

I just want to be clear. That was the sort of intelligence that was out there in the market in any event, wasn't it? ---I think having dealt with government for a long time we understand how these things work.

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What is it about this email though that causes you to say to this commission that you did not have communications with Mr Burns of that nature?---In terms of the very candid view that we were not stepping up to the mark with anything new, that would have, I'd say, alarmed me, but that's probably a bit dramatic. We had invested, and we continued to invest a lot in - if I had been signalled that the kind of view there that he was frustrated and one of the sources of frustration was our inability to communicate new ideas, bring new ideas, then I think we would have - worst case, we may not have bid for the RFI, RFP if we genuinely thought that we were not well regarded with bringing ideas and having some change of persuading CorpTech that we had a good idea, that we had a way forward.

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Can I test it this way: as general manager of SAP, had you been aware of communications like that between Mr Bloomfield and Mr Burns, would you have participated in the RFI or the RFP?---I may not have.

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Thank you. May I take you to volume 32, page 89? Just excuse me for a minute, I might not have the right page for you there?---I've got 89, it's just got "Dry Run" - - -

Yes, that's it, thank you?--- - - - as a topic.

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Volume 32, page 29. Now, this is an invitation to a number of IBM persons including a Mr Keith Pullen. Can I just ask you about Keith Pullen. Did you know a Keith Pullen?---Not at that time, no.

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All right. Subsequently?---Yes.

In what capacity?---Keith now works at SAP and we have some common customer interests in the market at the moment.

10

You will see there that there is an invitation sent also to a Keith Goddard. Did you know Mr Goddard?---Yes, I do. Yes I did at that point, yes.

All right. He was a contractor with CorpTech?---Correct.

And Mr Burns?---Yes.

Did you know whether Mr Goddard was working with Mr Burns at that time?---I believe so.

20

Mr Pedler, you can take it that this is dated 1 August 2007 which is when the invitation goes out but it's for a dry run presentation by IBM to Mr Burns and Mr Goddard at IBM's offices. This is in relation to the RFP, that is, if you recall the RFP, the proposals had to be in by 7 August - - -?---Correct.

- - - and you were invited to do a presentation before 7 August. Did SAP actually do a presentation?---Yes, I did. Yes we did, I believe; yes.

30

And you attended that presentation?---Yes, I did.

Was that a presentation given to what might be called senior management of CorpTech?---It was to an extended group at CorpTech, yes, senior management.

All right. Did you ever present your presentation for SAP before your main presentation?---No.

40

For example, would you have liked the opportunity to have a dry run before Mr Burns and Mr Goddard to get their feedback before you presented to the senior management? ---Clearly.

Why is that?---Well, the purpose of a dry run is to present the themes, the messages and get feedback and have the opportunity to refine those before you do the real one, so that would have been most welcome.

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Good. Can I take you then to exhibit 32? Can I start with the first email that you have seen and you deal with this in your statement, Mr Pedler, but can I just ask you these questions: do you recall receiving the content of this

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email that is page 2 from Mr Simon Porter from Accenture? 1
---I don't specifically recall receiving it, no.

All right. But does it resonate with you as the sort of email that you would receive from Mr Porter?---Yes, I would agree with that.

Did you respond to it, do you recall?---I can't recall. I can't recall, no.

Did you forward it to anyone?---I can't recall forwarding it to anybody. 10

Okay. More specifically, given your relationship with Mr Porter which you have outlined which was a good professional relationship - - -?---Yes.

- - - would you have forwarded this email to Mr Bloomfield?---It think it highly unlikely. 20

Why is that?---Because this is - this is an email with Accenture's position and some of their pricing strategy and it's clearly seeking information on their primary competitor, IBM's activities. I think it unlikely that I would have sent that to Mr Bloomfield.

Did you send it onto anyone else, to your memory?---I can't recall receiving it and I can't recall forwarding it to anybody else. 30

All right. If one looks at the content of the email, we had a session today with Bradley, Ford, Perrott and a few others and it's a reference to a meeting they had with the under-treasurer on 2 August 2007, "From Accenture, it was myself, Salouk and Doug Snedden. Be interested in any feedback you can get with respect to that session." Now, were you in a position, given your entrenchment at CorpTech through SAP and your regular meetings that you had had with Ms Perrott and Mr Bond and Mr Hood, you would be the typical or most logical person who would be in a position to get feedback from Ms Perrott at least in relation to - - -?---I would agree with that. 40

Yes. "Also interested in what meetings IBM are having with those guys." So he is seeking intelligence about whether they are also meeting with the under-treasurer and Ms Perrott. Yes?---Correct.

And again, you're the logical person who would be in a position to get that intel for Mr Porter if he requested it?---I could, yes; yes, agree. 50

All right. He says, "Have they been in front of Gerard?"; that is, Mr Porter is specifically trying to find out whether their primary competitor in this process, IBM, have got in front of the under-treasurer. Yes?---Correct. 1

Now, they had already been in front of the under-treasurer on 2 August. Yes?---They being Accenture?

Accenture, yes?---Yes. 10

No doubt being there for the purpose of forwarding or furthering Accenture's interest in terms of becoming the prime contractor. Yes?---Correct.

So in terms of business rivalry, it would be good to know whether your main competitor also has access to the under-treasurer. Yes?---Correct.

And indeed was meeting with him?---Correct. 20

That is the sort of thing that Mr Porter would ordinarily ask you to obtain for him in terms of information?---I think he would ask if I knew, correct, yes.

This is at a time when things are quite acute, are they not, the 3 August is when the RFP process has well and truly commenced, proposals are due by the 7th, presentations are happening to senior management and others at this time and he says it's clear that Gerard wants to know our number ASAP; that is, Accenture's price. "We said we could give a fixed price for the next release but would need to transition in over a six-month period in which time we will be able to fully cost and fix price the whole deal." Yes? "Next Tuesday, we will present a not-to-exceed budget figure." Now, is that - the fact that a competitor or the fact that Accenture was going to put a not-to-exceed figure in response to the RFP, is that important commercial information?---I think it could be at that time, yes. 30

Could you explain why?---So, look, there are - so what that would signal is that their best estimates are that it should not go higher than this amount of money but the impression is that their level of detail is not to the point where they can give a finite fixed proposal for the work, so from to point of view as a recipient of that, you know what your top number is but the best case is that it could come down from that, so that's one pricing approach. 40

Mr Pedler, it is important or is it commercially important information to know how long a company will take to transition into a particular role?---That is an important dimension, yes. 50

Why is that?---Because the length of time means that if you are taking six months to get transition, that means you're not going to get a sudden shift of ownership responsibility and risk from point A to point B, it is going to transition over that point in time and it leaves variables still in play.

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***They go on to say that they knew that they have about \$100 million left. "They know that is not enough but we want to know how much more can they bear. Perhaps you could test her on her expectations." The reference to "her" is Barbara Perrott. Yes?---I'm interpreting that.

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"For a not to exceed price and if she is not forthcoming with information, then try some ranges and assess her comfort. That is, they expect plus or minus \$200 million." Now, if this email was, in fact, sent to you, given that you're the sort of person that's logically the type of person that Mr Porter would be aiming at - - -?---Correct.

10

- - - did you have access to Ms Barbara Perrott for the purpose of talking to her about Accenture's bid?---I didn't have on demand access to Barbara Perrott, so it was not a case of I could pick up the phone and walk around to the building and get access. I had access, I had regular access, but I didn't have on call access.

20

All right. We know that SAP was going to make a presentation in response to the RFP?---Correct.

But this seems to be referring to a one on one meeting with Ms Perrott, does it not?---It - that's what it would - that's how I would interpret that, yes.

All right. Do you see anything improper in a request from Mr Porter to you, or indeed others, to seek to influence Ms Perrott or test her out on her expectations in relation to a not to exceed price?---Oh, look, generally that's intelligence that people seek to test and refine their own propositions. I guess I'd observe at the same time as this email came out, we would have been putting together our own bid and very focused on our bid, so - I'm not sure that I've answered your question, but I guess there are shades of grey on how that is improper, or proper or improper.

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COMMISSIONER: Mr Pedler, I know you can't recall receiving it, but you do say that if it did come to you, you wouldn't have sent it on for obvious reasons. If it came to you, if it did come to you and you didn't send it on, how could it have got to Mr Bloomfield, can you speculate or help us?---Look, I can't, I can't rationalise how it might have gone. Presumably it came to me. I can't rationalise a chain of events that would have had me forwarding it either directly or indirectly to Mr Bloomfield. I just can't rationalise that at this point.

40

Do you know of anyone who at the time of August 2008 would fit the description, someone in the industry, IT industry I take it, who was friendly with Mr Porter and Mr Bloomfield?---Other than myself?

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Yes?---I have contemplated that many times since I had the first interview about this and I can't think of an individual that might also fit that description. 1

All right. Thank you.

MR FLANAGAN: Did you have a CorpTech address, email address?---No, I didn't.

Did, to your knowledge, Mr Porter have a CorpTech email address?---Not to my knowledge, no. 10

All right. So if it was sent to you and your email address, that was a SAP email address?---Correct.

Did Mr Porter have your private email address?---I doubt it.

At one stage, did SAP and Accenture contemplate partnering in terms of the roll out of the prime contract model?---In 2007, I don't believe we contemplated partnering at that point. We did contemplate partnering for the initial software bid in 2005. 20

All right. Without giving too much away, did you have discussions as the general manager of SAP with IBM as to partnering IBM in terms of the roll out?---In 2007?

2007, yes, as part of this prime contractor model?---Not that I'm - not that I recall, not that I have any recollection of. I doubt it. 30

The strange thing about this email is that SAP was putting in its own proposal to take on the prime contractor? ---Correct.

And Accenture is here through Mr Porter seeking - assume it's you, right, just let's for the present purposes assume it's you. They're seeking to get you, who's also a competitor in this bidding process - - -?---Correct. 40

- - - to get - not so much get intelligence, but to seek to sound Ms Barbara Perrott out - - -?---Yep.

- - - to see what price the government could bear in terms of a not to exceed price. Yes?---Yes.

That seems quite odd, does it not?---Well, it seems odd to me that Simon would send that email to me at that point in time and also show to me as SAP knowing full well that we were putting our own bid forward, so he's called a position that could be construed as a competitive position to me, who were also competing with us. And that weighs on my mind as to whether or not Simon would have done that at that point in time, bearing in mind that none of us had submitted our proposals at that point in time. 50

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Could that actually have annoyed you so much that you'd pass the email on to Mr Bloomfield?---I'm not that easily annoyed.

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Okay. Thank you.

COMMISSIONER: Mr Pedler, I think we asked SAP if it could look for the email in its records and archives. I gather that was unsuccessful, the search was unsuccessful?---So when I left SAP in August 2008, I left DVDs of all of my emails with SAP as I understand that the organisation - well, I know the organisation has moved premises since then and I believe all of those DVDs have been destroyed or lost.

10

Mr Flanagan, is that a convenient time?

MR FLANAGAN: Thank you.

COMMISSIONER: It's 1 o'clock, I note. We'll adjourn until 2.30, but, Mr Doyle, can I ask you, are you going to question Mr Pedler?

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MR DOYLE: Yes.

COMMISSIONER: How long do you think you might be? I just want to know for the arrangement of witnesses in the afternoon.

MR DOYLE: Probably an hour and a half.

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MR FLANAGAN: Perhaps we might interpose Mr Pullen immediately after lunch and Mr Porter's here now, so we might put Mr Porter off until - - -

COMMISSIONER: Monday morning.

MR FLANAGAN: - - - Monday morning.

COMMISSIONER: Yes. And have Mr Pullen at 2.30.

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MR FLANAGAN: Pullen, which will be a short witness, and then Mr Doyle can have the afternoon with Mr Pedler.

COMMISSIONER: Yes, very well. We'll do that. So we'll adjourn now until 2.30?---Sorry, just for the sake of clarity, you think that I might be here for an hour and a half with you?

Mr Doyle thinks that, yes.

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MR DOYLE: Yes?---It'll take an hour and a half? Okay.

WITNESS WITHDREW

THE COMMISSION ADJOURNED AT 1.04 PM UNTIL 2.30 PM

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THE COMMISSION RESUMED AT 2.30 PM

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MR FLANAGAN: I call Keith Pullen.

PULLEN, KEITH JAMES sworn:

MR FLANAGAN: Would you give your full name to the inquiry, please?---Keith James Pullen.

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Mr Pullen, have you signed a three page statement, dated 10 April 2013?---That's correct.

Would you look at this document, please?---Thank you.

Is it the statement that you've declared the contents of which are true and correct to the best of your knowledge and belief?---That's correct.

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I tender that statement.

COMMISSIONER: Yes, Mr Pullen's statement is exhibit 50.

ADMITTED AND MARKED: "EXHIBIT 50"

MR FLANAGAN: Mr Pullen, I just want to cross-examine you - sorry, examine you, if I may, about paragraph 7 of your statement where you deal with paragraph 107 of the statement of Mr Bloomfield?---Yes.

30

Where he recollects the particular conversation he had with you in or about late August 2007. Do you see that?---Yes.

According to your statement, you don't recall raising such concerns with Mr Bloomfield, correct?---Correct.

The concerns that he identifies was that in substance you said to him, "The presentations to CorpTech were available to all staff at CorpTech on the LAN," that is, the local access network, correct?---Area network, yes.

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At paragraph 9, you say, "Even if concerns about access had been raised I would not have been aware of them," and then you give what seems to be two reasons for that. The first is that you had no access to CorpTech's computer network - - -?---Correct.

- - - and the second is that you did not have direct contact with people who were working as part of the HRBS project, yes?---That's correct.

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Mr Pullen, there's lots of ways of obtaining information, isn't there?---There probably is, yes.

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Including, it seems, in the IT world, and in the business world in general, by way of rumour, yes?---Yes.

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Had you heard any rumor or had any person - actually, before I ask that, there's also other sources apart from rumours. You could have obtained information from a CorpTech employee or employees who informed you that they could access, or had free access, to the LAN, yes?---Yes, potentially.

10

You could have obtained the information from another contractor, from, say, SAP or from Logica. Yes?
---Potentially.

Yes. In identifying the two reasons in paragraph 9 of your statement, those two reasons don't stand in the way of you having obtained knowledge that gave rise to concern that Mr Bloomfield as identifying. Do you accept that?---Well, one thing there: August 2007, the HRBS contract had been completed by that time because it had moved into the ITO offering, so I had no access, I'd finished on that role, I didn't have any access. I believe at that time probably half the people had rolled off that were under the HRBS contract, so I would have had no access down to anyone at CorpTech.

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All right. But in terms of when you say "no access to anyone at CorpTech", you were still dealing with Ms Blakeney, weren't you?---Probably not at that time, no, because the HRBS contract was finished.

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Where do you think you were physically stationed at the time?---I was always at IBM.

At the IBM offices?---Correct.

Did you ever have an office at CorpTech?---No.

Did you ever had an email address at CorpTech?---No, not until the ITO, until we won it, and that would have been - I probably would have got an email address in probably October 2007.

40

All right. Apart from Ms Blakeney, did you have any other contact with officers at CorpTech?---Would be Maree Blakeney and probably - there was another lady called "Shane" that used work with Maree, but Maree was the main person, she was the contract lady, I was dealing with the HRBS contract in terms of resources so that was the main contact for me.

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Did she ever explain to you or suggest to you that she held concerns about people having access to the LAN for the purpose of accessing the proposals that have been put in by vendors in response to the RFP?---No, because in August 2007, I didn't have any contact with Maree anymore

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because the HRBS contract had been completed.

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All right. Did you, at any stage, to the best of your recollection, hold any concerns that Accenture had access to what IBM had presented to CorpTech in response to the RFP?---No.

Do you have any recollection of ever having that sort of concern?---No, I don't have any - I don't recall any concern like that.

10

When you refer to Mr Bloomfield's recollection of conversation with you, he suggests that the conversation took place at the IBM offices, that is, it's a face to face conversation in or about late August. So that you're both at the IBM office and you raise with him this concern that in substance the presentations to CorpTech were available to all staff at CorpTech on the LAN?---Yes, and I don't recall having that conversation and I don't know how I'd get that information.

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When you say you don't recall having the conversation, do you go so far as to deny the conversation took place? ---Well, I can't deny it, I don't remember having the conversation with Lochlan.

All right. If you had such a concern or held such a concern as at late August 2007, would you have brought it to the attention of your superior?---Yes.

30

Who was your superior at the time?---Someone in Sydney, I don't know, Lewis or someone like that in Sydney.

Were you at all answerable to Mr Bloomfield, for example? ---Only during the - during the big process he was the lead for the bid, so, you know, I had a dotted line to Lochlan, but my manager was in Sydney.

Did you work on the IBM proposal for the RFP?---Yes.

40

And that was a proposal that had to be in by 7 August? ---Whatever date, I don't know the dates, no.

Did you also work on IBM's proposal for the ITO, which was finally delivered on or about 8 October 2007?---I would have, yes.

So you worked both on the RFP and the ITO, yes?---Yes, I'd say so. Yes.

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And working on those two programs, if you like, or working on the ITO, the responses for IBM, you were answerable to Mr Bloomfield, yes?---Yes, definitely, dotted line to Lochlan, yes.

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All right. So if you had such a concern, was Mr Bloomfield your obvious superior for the purpose of reporting something to him of such a concern?---Yes, I'd say so. **1**

When you refer to the person, your manager was in Sydney, who were you referring to there?---I think he's just a people manager.

All right. But it would be the case, would it not, that if you did hold a concern as at late August, the person that you would most logically report to or bring that matter to his attention would be Mr Bloomfield?---It would be both, actually. **10**

It would be both?---Yes.

All right. And I take it you have no recollection of ever bringing such a concern to the attention of your Sydney manager?---No. **20**

Can I show you, then, a document which is found in volume 33, at page 36?---Volume 33, page 36, was it? **20**

36, please, yes?---I don't have a 36.

Now, this is an email from Terry Burns. Did you ever meet Mr Burns?---Only after the ITO, successfully winning of the ITO.

All right. Thank you. To Ms Barbara Perrott, had you met Ms Barbara Perrott previous to this?---No. **30**

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All right. It's an email dated 31 August 2007. Can I ask you to read it to yourself?---Okay. Yep. 1

Do you have any knowledge of Mr Bloomfield ringing Mr Burns with the concerns that are expressed in this email?---No, I don't.

Did he ever tell you, for example, that he had brought those concerns, not dissimilar, not exactly the same but not dissimilar to the concerns he says you raised with him. Did he ever say to you that, "I've raised those concerns now with Mr Burns at CorpTech"?---As I recall, no. 10

All right. Thank you. Finally, can I ask you to look at exhibit 32. Did you know Joseph Sullivan from IBM?---Yes.

Did you know Jason Cameron from IBM?---Yes.

And you certainly knew Mr Bloomfield, of course?---Yes. 20

If you could just read the second paragraph of that email? ---Just the one being interested in any feedback, that one?

"As I told Jason this morning"?---I've got the wrong page there, have I?

Page 6 of exhibit 32?---Yes.

Can you assist this commission with any knowledge you have of an attempt by Mr Sullivan to identify whether the vendor proposals were on the G drive at CorpTech as at 29 August 2007?---No, I have no knowledge of that because I'm not even part of the email. 30

Quite. I know you're not part of the email but was this - given that you're said to have expressed concerns to Mr Bloomfield directly, do you know what steps, if any, IBM took in relation to trying to identify whether the proposals were available on the G drive at CorpTech?---No. Well, I don't think I expressed concerns. I don't recall expressing concerns to Mr Bloomfield, so, you know, I've got no understanding of this email. 40

Thank you. That's the evidence-in-chief.

COMMISSIONER: Mr MacSporran.

MACSPORRAN, MR: I have nothing, thank you.

COMMISSIONER: Mr Doyle? 50

MR DOYLE: What was the HRBS contract that you were working on prior to your move back to IBM, prior to the end of June 2007?---Human Resource Business Systems, so that was the contract that allowed IBM to supply resources from Workbrain, RecruitASP and Saba to Queensland Government.

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Right. And you were located within the premises of IBM, were you?---Yes.

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But your job required you to have access - that is, contact with people at CorpTech?---Yes, sourcing strategy, which was run by Maree Blakeney, yes.

Okay. That is, the job that you filled was one which required you to speak with people at CorpTech?---Yes, Maree, yes.

10

Okay. You describe her, I think, as your main contact? ---Correct.

She wasn't the only contact?---Shane - I just said Shane before, yes.

Right. Okay. Anyone else?---No. Not really, no.

Did you never go to CorpTech premises?---I went there, probably, on a rare occasion to have a meeting with Shane and with Maree and Shane, so probably once a month, so I'd go there and attend the meeting, yeah.

20

Over a period of a about a year. Is that right?---No, I only started formalising those meetings probably towards the end of the contract, you know, and then I wouldn't - I'd probably say we did four or five of those meetings.

Okay?---Yeah.

30

And one of the things you did was if they asked for a resource, that means a person - - -?---Correct.

- - - you would arrange for an IBM person to go and fill that job, whatever they wanted that person to do?---No. Well, it was for contractor resources, so Saba, RecruitASP and Workbrain, so they would send an email through sourcing strategy, which was their email account to my email account, which was CorpTech resourcing, but we wanted a Workbrain resource from this date to this date. What I would do is take that request, go back to the independent service vendor, look for the particular resource, send the resume and the price, and then they would determine whether they want to take the resource.

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Okay. So they asked for someone - let's take a hypothesis - who knew something about Saba?---Yep.

You'd speak to Saba, arrange such a person, give some details of that person to CorpTech and then, what, arrange the engagement of that person?---Yes.

50

And did you have a role in supervising that person?---No.

Okay. In the course of your activities, you became aware that there was a local access network or a local area network at CorpTech?---Well, no, I didn't know about the local area network. I only would have known that when I became part of - when we won the tender and then I was working at the CorpTech premises.

1

Right. I'm sorry, you would have known that, wouldn't you, that an organisation such as CorpTech would have a local access network or local area network?---Well, you would expect so, yeah.

10

Right. Okay. So perhaps you didn't - you weren't told but it's something you'd be surprised it wasn't the case? ---Probably, yeah.

And you understood that the way in which the work was arranged at CorpTech was that people who had access to the LAN were able to access documents which might be from their area or other areas within CorpTech?---Yeah, potentially. I don't know. I don't know what their - how their LAN is structured or anything, I, you know, just - - -

20

Right. Well, just doing the best you can - - -?---Yep

- - - thinking back to 2007, you're aware that there was access within the CorpTech organisation, people had access to their computer system. It was a capacity to access documents on that local area network?---Potentially, yeah.

30

Well, obviously?---Well, no, it's not, because if you run a project at IBM, you had it in a team room, it never settled. We didn't have a local area network, we'd have a team room, so I don't know how their network was structured.

Okay. One way of avoiding having that general access, as I suggested to you, is to not have the local area network. Yes?---Well, yes, that's probably a way of doing it, yeah. I don't - - -

40

Now, you say that one of the reasons you give for not believing you had this conversation with Mr Bloomfield is that H - - -?---RBS.

- - - RBS had come to an end at a certain time. When?---I don't recall. It would have been the time when they said they were going to go to a prime contractor model, so they would have finished the HRBS contract and moved on so that they could start the ITO, I suspect.

50

Right. So is it the best of your recollection that it was the time that the ITO was issued?---Correct.

Okay. And that's at the time when, to the best of your recollection, the H - I'm sorry, I'll get the acronym

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wrong - - -?---RBS, yep.

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HRBS - - -?---Yep.

- - - came to an end and, for that reason, your reasonably comfortable that you didn't have - you couldn't have the conversation or you're unlikely to have the conversation or you're unlikely to have the conversation that Mr Bloomfield refers to?---Well, that's what I'm saying, I don't recall having that conversation, yeah.

10

Okay. If I asked you to assume the ITO was issued after the end of August 2007, that would be a surprise to you, would it? That's not your recollection?---I don't remember when it was issued, yeah, correct.

Okay. Thank you. Now, I want to really test your memory, Mr Pullen. You had heard - it's not being suggested, I think, in the statement that you've been asked to read of Mr Bloomfield's that you had access to the LAN at all. That's not being said. You understand that?---Yeah, I didn't have access to LAN, correct.

20

Nor is it, in fact, being suggested that you knew that access was available, that means, but rather you believed it. That's what Mr Bloomfield's statement says?---Mm'hm.

least possible, isn't it, that you'd heard from someone within CorpTech that documents which were put on their system were accessible generally by people within CorpTech?---Probably not because the way I operated was I only just got a resume and I never spoke to the people that were on the project, so I would get a resume of a resource that I don't know from a bar of soap and then I would present the resume, and then we would just get the resource to turn up on CorpTech and work, so I didn't really have - I didn't know any resources intimately that were on the project.

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Right. I think you said you came back to start working on the RF - - -?---HRBS?

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No, a different acronym this time. You came back to work, not on the HRBS but on something else, which was - - -? ---The tender document?

Now, reflecting back on events in August 2007, it is at Yes?---Yeah.

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Now, what acronym do you recall was the tender document you were first involved in?---RFP, probably.

Okay. Well, do you know when that was?---No.

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If I were to suggest to you it was initiated by the document 25 July, does that sound right?---I would - can't recall.

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Okay. Well, certainly, whatever your experience before that time, you were involved in acquiring information about the roll out of the Shared Services program in order to do whatever you were going to do to assist in the response to the RFP?---I would have got the documents and read them like anyone else, yeah.

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Yes. That is your role was to provide some assistance to others who were doing some work to respond to the RFP and you know that the process included at least asking for information and being provided with it?---Yes, I think I worked on the data migration aspect, actually.

1

THE COMMISSIONER: You worked on what?---Data migration.

MR DOYLE: The technical facility for data migration from the agencies to the proposed roll out system. Is that right?---Correct, yes.

10

Okay. And to do that, you needed to have information about the nature of the data which had to be migrated and the nature of the system which had been designed to date?---I would have pretty much worked on the strategy and the approach so probably not, you know, as high up as the strategy, you have got the source system, a target system, you're going to do some transformation in the middle and you're going to put it in the target systems so, you know, from an approach perspective, probably - you know, I wouldn't really need to know that detail.

20

Do you recall that or not?---What?

Do you recall that you didn't want to know the things that I have just put to you, that you knew that there was a facility for requesting information being provided, at least in relation to the data migration topic with which you were concerned?---I'm sure you could ask clarification questions.

30

Yes?---Yes.

And in the course of that, you became aware that information was available on CorpTech's computer system for those who were able to access them?---No, because we would go through - I'm sure the tender document would have said you need to go through this email address for clarification so you would have gone through that process.

40

I suggest to you that you're confusing - understandably after six years the events which occurred after the ITO was issued. The ITO says if you want information, you are to communicate through Maree Blakeney?---Yes.

Do you recall that?---No.

Sorry?---No, I don't. No.

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Okay. I'm asking you about an earlier process?---Yes.

Do you recall being involved in an earlier process?---No.

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You don't? All right. In the course of the performance of your HRVS tasks - - -?---Yes. 1

- - - I take it you're aware that there was a contract for the provision of HRVS software support?---Software support, yes.

Do you recall where it ran from and to?---It was - I think it was a three-year contract that got renewed every year after that, I believe. 10

Do you recall it started in November 2005?---Yes, I think so.

Did you have a role in providing support services for its performance?---No, I just managed the financials.

Okay, but it provided, did it not, for a minimum term of three years, it was a term to the end of 2008?---Yes, I think so. 20

You were aware, aren't you, in about late June 2007 there was an approach to extend the HRVS contract for three months from the end of 2007, from the end of June 2007? ---The end of June 2007?

Yes?---I can't recall that.

Okay. If I were to suggest to you that you not only told Mr Bloomfield that you believed documents including Accenture's proposal was available on the LAN at CorpTech, that you said that to other people within IBM. Would you accept that?---No, I don't think - I don't know how I would know - I just don't understand that. 30

I suppose there are two questions; whether you knew it and you're explaining why you didn't know it, I'm asking you whether you said it?---No.

If I suggested that you said it not just to him but to other people, you would reject that, would you?---Well, I can't recall saying it to anyone, no. 40

Thank you. I have nothing further.

THE COMMISSIONER: Mr Flanagan?

MR FLANAGAN: May Mr Pullen be excused, please.

THE COMMISSIONER: Yes. Mr Pullen, thank you for your assistance?---Thank you. 50

WITNESS WITHDREW

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MR FLANAGAN: I recall Mr Pedler.

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THE COMMISSIONER: Yes.

PEDLER, ROBERT KINGSLEY:

MR FLANAGAN: Mr Pedler, may I ask you to take up exhibit 32 again, please. Page 2 of exhibit 32 which is the same email we were discussing just before lunch?---Yes.

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In the third-last paragraph, Mr Porter writes, "One of our concerns is that a competitor will offer them a silver bullet through ridiculously cheap price that is within the remaining budget." First of all, did you think that a price within the remaining budget constituted or would constitute a ridiculously cheap price?---Not automatically, no.

Did you have a similar concern to that being expressed by Mr Porter from Accenture in this paragraph?---I don't recall having the same concern. I think at that point we were concerned about offering a credible deliverable solution from SAP and we would have built that from the bottom up and costed it accordingly.

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All right. Now, appreciating that you don't recall being sent this email - - -?---Yes.

- - - can I ask you this: did you ever approach Ms Barbara Perrott after 3 August or on or about 3 August 2007 where you sought to find out from her what the government's appetite was for price?---I don't specifically remember seeking a meeting with Ms Perrott on that basis on or about that time.

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Apart from seeking a meeting with her, at any time after 3 August 2007 until SAP withdrew from the process, did you ever approach Ms Perrott to try to find out for Mr Porter what her appetite was for price; that is, in the terms that he is talking about there plus or minus \$200 million?---I don't believe that I would have done that on Accenture's behalf during that period.

40

Accepting for the present moment that Accenture had specifically raised both with Ms Perrott and the under-treasurer - - -?---Yes.

- - - the facts of their concerns about the silver bullet that is expressed in the third-last paragraph, did you ever express to Ms Perrott after 3 August 2007 your concern that one tenderer would bid what was called the silver bullet?---I don't recall that as a topic of conversation. My conversation and my focus would have been on SAP delivering a credible price-effective bid that we could deliver.

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Just from your own memory without going to the document, what was the indicative price provided by SAP in response to the RFP?--I'm sorry, I don't remember. I think we probably would have built it up with options. I don't remember the pricing range.

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Okay, thank you. We won't go to that at this stage. Can I take you to page 5 of that document, please, of exhibit 32? ---Sure.

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Can I just ask you to read the second paragraph of this email. It's an email from Joseph Sullivan. Do you know him from IBM?---No, I don't.

It's from Mr Sullivan to Mr Bloomfield with a copy to Mr Cameron, but just the second paragraph, please?---Okay.

Did you have any knowledge of concerns being raised that the proposals that had been put in in response to the RFP by SAP, Accenture, IBM and Logica were available on the CorpTech's LAN network?---I don't recall that.

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Do you have any knowledge of that whatsoever?---No, I don't.

Finally, if I can take you to page 4 of exhibit 32?---Back one page?

Yes, please. Again, it's not your email but it's an email as between IBM representatives, dated 22 August 2007?---Yes.

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Do you have any knowledge of this evaluation of the RFP proposals by CorpTech being leaked in this way?---No, I don't.

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It's said that after the RFP a letter was received by Ms Blakeney, one of which you received saying Accenture and IBM were the highest rated bids?---Correct.

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And it was soon after that you decided to withdraw from the process, yes?---Correct.

But at the time that you received that letter you knew that a more formal ITO process would be undertaken. Yes?
---Correct.

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It's been suggested that a competitor knowing information such as this, which is the evaluation for the RFP proposals, is irrelevant to an ITO or the ongoing process. Do you see any commercial advantage in knowing what a competitor was scored at a previous evaluation process, and also do you think - secondly, do you see any competitive edge in knowing that a particular element of your bid - sorry, when I say "your bid", this bid here - was considered to be a weakness?---Absolutely, that would be very valuable information as you're going from one phase to the next.

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Why is that?---Because: (a) you know that you're either ranked number 1 or number 2, so you know your relative positioning. And if you're not number 1, then that seems indicate where you were deficient in the scoring, so if you're moving from phase one to phase two then you have the opportunity to address it and do something about it in the second phase.

30

Had you received information such as this from one of your officers from SAP as to the evaluation of the RFP proposals, what would you have done with it?---At what point in time?

As at 22 August 2007, that is, after you'd received a letter from Ms Blakeney saying, "We're going to a more formal ITO process"?---So if I'm answering this from an SAP perspective, earlier that month we got the notice from Blakeney that we were not 1 or 2.

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That was actually on 20 August?---That was on 20 August?

Yes?---Okay. So from an SAP position, we knew that we were not 1 or 2, and it was debatable as to whether we were third or fourth. At that point in time, I made a business judgement to say, "Well, what is our ability to do, I think, that we've got an ability to persuade in a subsequent procurement process, to what ability have I got to persuade that will increase my position from possibly fourth out of 4 to be seriously considered 1 or 2?" So at that point in time, and also knowing that whatever happened, the Queensland government

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CorpTech was an SAP customer, so at that point in time I made the business decision to not expend more resources because I thought that our ability to persuade and win was very, very limited. So that was the point of the withdrawal email.

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Yes?---If I had this kind of information on or before sending that email back, it probably would have validated and vindicated that I'd made the right decision. I note with some interest that we didn't actually even get a mention in this email, so I question how seriously we were being considered.

10

Yes, but can I clarify my question?---Please.

Knowing that this is information that constitutes an evaluation of proposals, which is an internal evaluation by CorpTech of these proposals which is being - part of that information is being leaked to one of the tenderers, had you received that type of information I want to know how you would have actioned it?---I would have been extremely concerned that this kind of information that should be commercial in confidence as a part of the evaluation, I would have been extremely concerned that this was coming out especially if we were going to continue in. I probably would have raised it as a minimum, Ms Perrott, possibly higher.

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All right. Thank you. That's the evidence of Mr Pedler.

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COMMISSIONER: I take it from what you're saying that if information like this is being given to one tenderer and not others, it had the process to distort the whole tender process and ones integrity?---I think that's what I'm thinking.

COMMISSIONER: Mr MacSporran?

MR MACSPORRAN: No, nothing, thank you.

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COMMISSIONER: Mr Doyle?

MR DOYLE: Thank you. Mr Pedler, SAP had involvement, at least, since 2005 at CorpTech?---Yes.

And its software was to be used for the HR - at least for the HR component?---At least.

And for the finance component?---Correct.

50

And possibly other things at that stage?---Correct.

And you had been involved for the whole of that time, since 2005 up to at least the end of 2007?---Earlier, indeed.

Okay?---So I joined SAP, as I pointed out earlier, April 2000, and the Queensland government was a key customer and I had an active interest in the Queensland government.

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At least by 2005, Accenture and Logica were involved in performing aspects of the whole of government program development?---And IBM.

And IBM? And Accenture had the role of building, and to the extent to which it happened, rolling out the SAP HR system?---Yes.

10

And Logica had the function of building and rolling out the SAP finances?---Correct.

Which means that they were responsible for supervising resources, as people are called in this industry - - -? ---Yes.

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- - - do those things, and a lot of those resources would have come from your company?---Not a lot.

Let me withdraw "a lot". Some would have come from your company?---Some, correct.

And a lot would have come respectfully from Accenture and from Logica for the different parts they were doing? ---Correct.

30

You would say that each of those three companies, through their personnel, had an intimate knowledge of the program as a result of the work they were doing in 2005, 2006 and in the first half of 2007?---I would expect so.

You would accept that IBM's role was a less significant one in 2005 and 2006?---I don't - it's hard to say relatively. IBM had a significant role in the technology layer of the shared services program.

40

Right. Not in the build of the solution for HR or for finance or whatever else was being built at this stage? ---No, if we take the technology layer was where IBM was selected and put resources. We had the HR functional application, if you like, that was where Accenture were focused, and Logica CMG were focused on the finance block.

Very good. Now, I think it's been said that Accenture at least was being paid on a time plus basis, you may not know that. Was that the basis on which SAP was being paid in 2005, 2006 and the first half of 2007?---Our people were there on what's called a time and materials basis.

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All right. Thank you. There came a time when various suppliers were called to a meeting with Mr Ford. Mr Ford, David Ford?---Yes.

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At the end of April 2007?---Yes.

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And that was a meeting at which you attended. Do you recall?---Yes, I think we've seen earlier the invitation to the meeting with David Ford.

And at that meeting Mr Burns was present and you were introduced to him if you hadn't already met him?---Look, I'm not 100 per cent sure that Mr Burns was there, but if that's the indication, yes, I'll accept that.

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And you recall, don't you, that the tenure of the meeting - tell me that if you don't remember this - but the tenure of the meeting was that you were told that something had to change in the management and roll out of this program?
---Yes.

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PEDLER R. XXN

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That it had cost too much and not enough progress had been made. Yes?---Yes. 1

There had to be a significant change and that Mr Burns had been engaged to investigate what possible innovative steps could be taken to effect that change?---Look, I'll accept that was probably the theme of the meeting, yes.

Yes. Well, that's the substance, in effect at least, of what you know Mr Burns was engaged to do?---Correct. 10

And he was engaged to try to find new different ways of doing things - - -?---Correct.

- - - in the hope that it could be done better and cheaper, and faster?---Yes.

And as an aspect of that, you would know that he would have to inform himself about the state of the project, you would have to go out and find out things. Yes?---I would expect that was the case. 20

And that in the course of doing that, he would speak to people who had been involved in the project to date - - -? ---Mm'hm.

- - - to find out what they saw as the problems and what they saw as the solutions to the problems. You've got to answer audibly, I'm afraid, Mr Pedler?---Yes. 30

And you would expect that he would have had discussions with the SAP representatives who were present with the CorpTech premises?---I would expect that, yes.

And that the nature of the discussions would have been to find out everything he could from them about what they knew about this project and to see if they had any ideas about how it could be done better?---Correct.

Megan Janke had a role at CorpTech for SAP, didn't she? ---Correct. 40

And she had an office there, didn't she, or a desk?---She certainly had a desk.

Was she there full-time?---I believe she was through - probably through that period, yes.

Okay. And Chris Peck was - did he have an office at CorpTech as well?---Look, I'm less confident about him having a desk or an office there. 50

He may have, you're just not - - -?---He may have.

All right. And as well, I think you said you had 20-odd other SAP consultants at CorpTech - - -?---Correct.

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- - - of various degrees of seniority?---Yes.

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But junior to those two people. Is that - - -?---Correct.

Right. So the likelihood is you would expect Mr Burns to want to go and speak to Megan Janke and Chris Peck?---I would agree with that, yes.

And possibly others?---And others.

10

And it would not surprise you if those conversations took place "one on one", seems to be the language being used? ---I'd agree with that.

It wouldn't surprise you if that's what happened?---Yeah, I wouldn't be surprised.

Okay. And also, it would be your expectation that Mr Burns would be saying to people that he wanted to encourage innovative ideas?---Yes, I'd agree with that.

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And to encourage SAP, in particular, to do something different from what had been done to date?---Yes, I agree that was our approach.

And that's what you understood him to be seeking to encourage you to do?---Correct.

And in that context, you've used the expression "no sacred cows", but the effect of what you know Mr Burns was saying to people, and I'll come back to that in a minute, was that, really, nothing is off the table?---I'd agree with that.

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That he was inviting people to be as active as they could in identifying solutions to the existing problems and, in that regard, they should be bound by whatever their present program was or the present arrangements in that program were?---I'd agree with that.

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Thank you. Now, in your statement, which I'd like you to take up, please, I'd like you to go to paragraph 13. You say that, "Around this time, I had regular meetings, et cetera." Do you see that?---Yes.

Then you recall that you had regular meetings in your diary with Terry Burns?---Yes.

I just want to understand when it was that you can recall having your regular meetings with Terry Burns, when did that start, more or less?---Look, I would - I'm speculating that it would have started late May, June 2007. I'm speculating.

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Well, that's an informed speculation?---A reasonable speculation.

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Okay. So late May, early June, you commenced seeing him every two weeks, roughly, that will do for these purposes, and was there a structure to those meetings? Did you go to his office?---Yes.

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And was it just you and he or was it occasionally with someone else?---As we said this morning, most probably, most likely that they were one to one meetings, but possibly other people would have attended those meetings as well.

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Okay. And let's focus on the early meetings, then, the ones in either late May or early June for these purposes, the ones that you can recall to be around then. Would this be right, that he was making it plain to you that his task was to try to come up with some solution to what was seen to be a problem on this program?---I'd agree with that, yes.

That he was really tasked to identify some innovative and expansive - sorry, to engage in innovative and expansive thinking?---Yes.

20

And that if you didn't use those words, that was certainly plain that's what he wanted - - -?---The concept.

- - - that he was doing, and that he wanted you to do, to engage in innovative and expansive thinking?---Correct. SAP to engage in new ideas, innovative thinking, what could be different.

30

Correct. And that - these may not be his words, but again, the sentiment was that he wanted - he was going to push the boundaries and he wanted you to push the boundaries of the possibilities, if I can put it that way?---Agree with that on behalf of SAP, yes, certainly.

Sorry, all of this is on behalf of SAP?---Thank you.

And that in that respect, he was encouraging you to be focused in such a way as to try to bring the best out of you as far as - I don't mean you, I mean SAP, to help him identify the solution to this problem?---I would agree with that.

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You would describe him as something of a motivator to seek to motivate you to become engaged in this process?---I don't think "motivate" is the right word. He had a job to do. We had a strong interest in a successful outcome. We saw this as a new opportunity to get the program back on track.

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And he was certainly making it plain. He was sort of recommending to you that you should pursue that course of - - -?---Correct.

- - - using this as a new opportunity to get the project back on track and strongly recommending that this was an opportunity for SAP to do something new and different, if it could come up with the ideas?---Correct.

1

And, again, there's no doubt the sentiment was that he was strongly recommending that course be pursued?---Yes.

Whilst you've used the expression "sacred cowls", do you recall if he used the expression "no holy cowls"?---Too hard.

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He may have, you can't recall?---He may have.

All right. Now, at the time, you've just said that you had a significant interest in the project, already SAP was - - -?---Yes.

- - - extensively in this?---Absolutely.

20

And your expectation is that not only would he be speaking to you but that he'd be speaking to Accenture representatives. Yes?---Yes.

And Logica representatives?---Yes.

Possibly other companies?---Absolutely.

And also IBM representatives?---Yes.

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And your expectation is that he would be really saying the same sorts of things that I just put to you?---I would agree with that.

Encouraging each of them to come up with innovative and expansive thinking, to push the boundaries, motivating may or may not be the right word, but encouraging them to do that, telling them that this is - that he strongly is recommending that particular company engage in the process and try to engage in some new thinking, which will lead to a better way for that company to participate in the roll out of the Shared Services?---Yes, but I think's - from an SAP point of view, independent of Mr Burns, we saw this as a very important opportunity for the government to reset, restart and get it right.

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Okay. Well, I don't want to disagree with you. You had the same view that perhaps I'm suggesting Mr Burns had? ---Correct. So we didn't need to be told by Mr Burns that this was an important opportunity.

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Right. But nonetheless, as you recall it, you were told things to that effect?---We were pleased, we were pleased that this may well result in a new opportunity to get it right.

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Right?---Yes.

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Did you expect that he would be speaking to IBM as well?---I would have expected that, yes, absolutely.

And you would expect that one of the things Mr Burns would be achieve apart from getting innovative ideas would be to introduce a sense of competition between the parties - a price competition?---I think that goes without saying.

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Okay, thank you. Now, can I go back to your statement, please?---Yes.

In paragraph 18, again, you have got the expression, "During this time I had a number of meetings." Is that sort of the continuation of the regular meetings or are you talking about some additional forms of meetings here?---Good question. I don't recall any extraordinary meetings about the request for information with Mr Burns. My impression, my interpretation there, was that that was the regular pattern of meetings.

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Can I go back to the May June commencement of that pattern?---Please. Yes.

The reason I do that is you say in paragraph 19 - I'm going to read it to you so you needn't pick it up, but prior to Mr Burns' engagement by CorpTech, you had similar meetings with Darrin Bond?---Yes.

30

And that was true, obviously?---Correct.

Then you say, "My meetings with Mr Burns tended to take place in the office of CorpTech. I may have had coffee with Mr Burns on a one-on-one basis if there was ever an opportunity to do so?---Yes.

It was right to say that you expect that you did but you can't recall having had coffee discussions with him?---Yes. I think if there was an opportunity and it was available, we would go and have a coffee. The tendency was that they were formal meetings in the office at CorpTech.

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Of course, but that's not to exclude the fact that you would have seen no difficulty in having an informal discussion with him over a cup of coffee?---Correct.

Such things might occur because you bump into him in the foyer or the street or whatever and you decide to go and have a chat. Is that right?---Agreed.

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Thank you. Now, in your statement you say various things - again, I'm going to take you to some of them. You say that you have never had an off-the-record meeting with Mr Burns or words to that effect?---Agreed.

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But you do accept you had impromptu meetings with him?---Look, given our office was in Mary Street, the CorpTech office was in Edward Street around the corner and also there was traffic up and down Mary Street to other Treasury or government locations, I may well have met Burns and others in Mary Street as I was walking around.

1

You say that he never got to the stage where he provided coaching for SAP, that's the language that you have used in your statement, but he certainly was encouraging you to pursue the line that I have been asking about some time ago? ---Correct.

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It might be a mis-description to call that coaching but that's in fact what he was doing to say to you - not to coach you but to say to you that he wanted SAP to participate in a process which would explore innovative ideas and to come up with something new and to really give it your best shot?---Yes, but I don't accept that that's coaching.

20

Okay. I agree. He didn't tell you that he had worked for IBM that you can recall?---I don't recall ever that - that ever coming up in conversations.

It's not an unusual feature of this industry, your industry, that people when they get to certain senior levels have worked for a number of different companies throughout their lives? ---Correct.

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And it wouldn't have surprised you if he had worked for IBM or someone else 30 years earlier?---I would agree with that.

In fact, it would be something of a disqualification for someone to be involved in his assessment of this project without having had some extensive IT experience in his career?---Look, I would agree with that. He was brought in for his program experience and whether that was with IBM or anybody, that's what he was brought in for.

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Very good. I think you accept - you are at least no doubt saying possibly not with saying but he was going to try and introduce some more competition into the process?---I think that's a given within government procurement that it is competitive.

Very good. Now, you were shown earlier in the day an email of 28 June 2007. I will show it to you again if you like but this is the one where it is recorded Mr Burns saying that Accenture and SAP had nothing new or words to that effect?---I recall the email from earlier in the day, yes.

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If you need to see it again to answer the questions, let me know and I will show them to you?---Thank you.

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In the course of whatever he was doing, you would anticipate that he would form views about the responses that the various suppliers were making to his invitation to come up with something new and innovative. You would expect it?---I would so.

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It is inevitable that he would. Yes?---Agreed.

And you wouldn't expect him to say necessarily to someone, "That's not very good. I want you to do better"?---I would agree in principle but I also find it interesting that he has come to that conclusion before we put our final proposal in place.

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I will come back to that in a moment but you would expect him to - sorry, I will start again. Your perception of SAP was that it was already highly motivated to engage in this process and to do something new, if you could?---Absolutely agree with that.

That may not be a view shared by other suppliers - other suppliers may need to be given a bit of a shove?---I can't comment on others' views but absolutely. We did not need motivation to get it right.

20

The process of assembling information and coming up with ideas and presenting it to people is time-consuming and relatively costly one?---Correct.

More costly for someone who has to learn about the project than for someone who is already involved in the project?---Mm'hm, yes.

30

You need to be motivated to spend that money by some means. You had your own motivation, the other companies might need to be encouraged to do it?---Yes. I don't know how to answer that. I can't speak on behalf of others.

We will see about that, Mr Pedler. All right. That conversation which you were taken to was 28 June but in fact what happens is there is then a supplier briefing at which 11 or more different supplier groups attend and receive a briefing. Do you recall that?---I don't recall such a large number being invited to that process that was concluding in August 2007.

40

I will put it differently?---Okay.

There was a letter sent out - an email actually sent out on 29 June to everyone followed by a letter which invited a large group of people to attend what is described as a supplier briefing which was conducted by Mr Burns and Mr Goddard?---Okay.

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Do you recall that or not?---Not specifically.

All right, well, I will see how I go?---Okay.

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That there were some responses given by the various companies to the invitation which was made at that supplier briefing to provide some information. Do you recall that?---So can you - - -

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I will give you all the dates now?---Yes.

The supplier briefing is 2 July?---Mm'hm.

People have been calling it a request for information for reasons we don't even dwell on?---Yes.

10

On 25 July, there is an email sent out which asks in substance for an indication from the suppliers whether they will act as a prime contractor and some other things?---Yes.

And it's that email which contemplates a presentation by 7 August?---Okay.

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Now, I want to ask you about the first one, that is 2 July supplier briefing if you can recall it?---Look, I can't specifically remember being there but if we were invited, we would have been there.

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Right?---I'd say "we", I personally may not have been there by SAP would have been represented there, most certainly 1

I want to suggest there was that meeting, and I want to prompt your memory about this proposition: shortly after it, there was a suggestion made by your company - by you, actually - of the - by your company, I'm sorry, for a possible joint proposal to be submitted by each of Accenture, Logica, SAP and IBM for the use of SAP for HR and finance. Do you recall that?---Just to clarify, are you saying that I made that offer? Did I make that offer? 10

I'll show you some emails, if I may?---Please.

Can Mr Pedler be shown exhibit 41, please?---41?

Yes?---Okay.

We'll probably have to start on sheet two. You'll see there's an email from Kirsty Trusz at CorpTech?---Yes. 20

Talking about a request for submissions in response to our informal requests. Do you see that? And that's what I want to suggest to you is what occurred at the 2 July supplier briefing, there was a request for something?---So is this the Monday, 9 July email?

Yes?---Thank you.

You probably don't need to read that one so much?---Okay. 30

It's the one above it, you'll see there's an email from Mike, who I'll ask you to assume is a Logica man, Mike Duke?---Yes.

Which talks about Logica having given him approval to proceed with the collective view. Do you see that?---Yes.

And then over the page there's an email from Mr Porter to Mr Duke copied in the case of SAP to Ms Janke and Mr Peck - - -?---Yes. 40

- - - where it's said, "We need Terry's views on that before we go anything." And then there's an email from Mr Duke copied in the case of SAP to those two people - - -? ---Yes.

- - - which says:

We are down to see Terry at 12.30 today at his office, I did discuss our concept with him and he said they would be disappointed if Treasury did not also receive the individual responses back at their request. 50

Do you see that?---Yes.

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It would seem at least Mr Peck and Ms Janke were involved in receiving emails about this topic?---Right.

1

I take it they would have discussed them with you?---I'm sure they would have, yes.

I infer you don't recall anything about this or you do? ---No, I, now, having seen the emails, I do remember the concept.

10

Right?---Yes.

There was in fact a suggestion that in response to the supplier briefing invitation for people to go away and come up with individual proposals, there was a suggestion that there should be at least explored a proposal in which SAP was to be used common to each of IBM, Accenture, Logica and SAP?---So the fundamental is that it was our software solution to the extent that it was already contracted to be used, and the gist that I take out of this is that we would have formed one consortium to take a new proposal to Queensland government.

20

And you certainly had no trouble in, if you're aware of it, tell me if you weren't, an approach being made to Mr Burns to find out what his reaction to such an approach would be?---No, I think Mr Duke has made that approach to run the idea as a possible consortium.

And you personally don't see anything wrong in terms of the propriety or probity of Mr Duke going to Mr Burns and sounding him out about that concept?---No, I think if we take the theme that we've run here at the time is big new ideas, then this is potentially a big, new idea.

30

On 25 July, an email was sent out which is the one which people have been calling an RFP?---Right.

Have you seen it for the purpose of giving your statement? ---I'm not sure whether I'd seen it as a part of giving my statement or not.

40

Have you seen it recently?---I may have.

All right?---If it's material I'm happy to have a look at it again.

I'm going to have to find it, just excuse me. Can Mr Pedler be shown volume 28, please? Page 548?---Okay.

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You have it?---Yes.

You'll see this one is the one that's sent to IBM, but I want you to assume the same one went to everyone. In substance, the same one went to everyone. "The key information that we're looking for in the form of a firm

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proposal is," and then, "Is the company prepared to enter into a prime contractor role across the whole program?" It asks a number of things. 1

Following on from your conceptual approach presented recently, could you now also provide cost ranges and time scales? We understand that these are price ranges only but are anxious to use them.

And then a little further down, it says: 10

The process that we wish to follow from here onwards is to collate these proposals from all interest suppliers by 7 August, and we suggest that you may wish to make a presentation to the senior management group before this date.

Now, that's the presentation that ultimately you can recall SAP made to a large body of people at CorpTech, was it, or was it at Treasury?---I believe it was at SAP. 20

Okay. Do you recall receiving this?---Yes.

You can recall preparing to respond to it?---We did.

And it was clear to you that it was the first step in a number of steps that would have to be followed, that you would submit a proposal, there's be presentation about it and then depending on the outcome of that there would be the commencement of some other steps towards negotiation of contracts?---Agreed. 30

You were taken, in the course of your evidence, to an invitation to what was called a "dry run presentation" of the IBM proposal to Mr Burns and Mr Goddard. I want you to assume that there was a presentation by IBM on 7 August to a large body of people, much the same as your company's? ---Yes.

Ahead of that, it would be desirable for a proposed tenderer to be able to talk to someone like Mr Burns to see that you're in fact getting it right, that you're heading in the right direction meeting the objectives that he has for this process?---I would agree that it would be desirable, yes. 40

And that such a thing is a usual step for a tenderer to take?---It depends on the nature of the meeting. In some procurement processes they are incredibly tight, and to have a meeting such as that it would be actually tightly managed and with procurement to ensure probity. 50

Such a program would be in a formal document which would set out the probity requirements?---Correct.

The contact arrangements?---Correct.

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And would make it plain what was expected of everyone? 1
---Correct.

The email to which I've directed your attention is not such
a document?---No, I'd agree with that.

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All right. And I think you said that it would have been most welcome if SAP had been able to have such a meeting with Mr Burns?---Such a dry run?

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Such a dry run?---I would agree with that.

And had you thought it was open to you to do it, you would have done it without hesitation?---Yes.

Thank you. I want to show you volume 32 now, please. Open at tab or item 31. And if you turn, please, to page 2. At the bottom of the page, you see the commencement of an email from Mike Duke to Terry Burns and someone else at CorpTech, dated 31 July. See that?---Yes.

10

And if you turn the page, Mr Duke says, "We've booked the meeting with you and Barbara," you can take it that's Ms Perrott, "for tomorrow," that would be 1 August, "at 1 pm. We are progressing with our response and are seeking the follow information," and then there's a list of information which is set out, the detail of which doesn't matter for these purposes. Could you turn back to page 1, please. I'm sorry, page 2. In the middle of the page, there's an email of the same date from Mr Burns to Mr Duke, saying, "This meeting is fine. You will also have the requisite people at the meeting who will be tasked with assembling information." And at the top of the page, you will see a response from Mr Duke:

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Hi, Terry. I'm sorry, we actually wanted to meet with just you and Barbara at 1 pm tomorrow. We wanted to use this meeting to test our approach on you both and put some of our cards on the table.

30

Do you see that? That's the kind of opportunity that you, wearing your SAP hat, would have described as most welcome? ---Yes, I'd agree with that.

Thank you. And if you turn across the page - - -?---Back?

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- - - back to page 1, I'm sorry, yes. You will see there's an email commencing at about point 2 of the page from Terry Burns to Mr Duke, saying - it says, "Further to your note below and our subsequent discussion," then he comments about some things I don't really want to trouble you with, then at the end it says, "There is, of course, no reason in this" - sorry, "in an informal process such as this why you cannot submit further useful information later but our decision will be reached by 14 August." And you'd accept that the process which followed the email of 25 July is one which is fairly described as an informal one?---I would agree with that, yes.

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Thank you.

COMMISSIONER: Do you read that email from Mr Burns that

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appears on page 1 of this tab as really rejecting the request for the meeting with him and Ms Perrott? 1

MR DOYLE: No. There's obviously discussion between and we don't know the detail of it. It starts by saying, "Further to your note below and our subsequent discussions."

COMMISSIONER: Yes, but further to the note and to the discussions, it looks like Mr Burns is pouring cold water upon the suggestion that there'd be a meeting with him and Ms Perrott. Is that how you read that? Has Mr Duke asked you about this? 10

MR DOYLE: You're testing my memory now and it's not as long as ago as six years. I mean, the commission undoubtedly had this material, it was available. I can't recall whether my friend did or whether I did, I can't recall. Can I ask you to turn back to item 30 in the same volume?---Yes. 20

Just excuse me, please. I'll just ask you to go to page 2? ---Mm'hm, yes.

At about point 3 of the page, there's an email from Mr Robert - sorry, from Mr Porter to Terry Burns and others at 5 o'clock on the afternoon of 24 July 07?--5.31 pm?

Correct. That's "Re Accenture Proposal" and it says: 30

Thank you for your meeting today. As a result of what we discussed, we would like to move forward with the following plans.

And then you'll see there's nominated a meeting, it seems to be on 1 August?---Yes.

Then a presentation on 7 August?---Yes.

To a bigger group?---Yes. 40

Then there's a reference to conducting some one on one meetings with SDA members "to assist us with our preparation". Do you know what the SDA was? Solution design authority?---Yes.

And it was a new - a relatively new CorpTech body? ---Correct.

And it was ultimately going to - it was intended, at least, ultimately, to have some role in ensuring that there was forward planning conducted so that all of the agencies provided their requirements up front rather than piecemeal throughout the project?---Are you asking me - - - 50

I'm asking if you agree with that or if you don't know?
---Look, I think the solution design authority, again,
testing my memory from nearly six years ago, was a new
structure in CorpTech to try and take control of the whole
design of Shared Services from a solution point of view
rather than - I'm sorry, I missed your second point, but it
was an application solution design authority, a group to
take the whole view of what was required.

1

All right. That'll do. If you turn back to page 1, I'll
ask you to assume that the response to that email was to
say, "Send us an agenda for the first of those meetings."
And then at the top of the page, you'll see Mr Porter sends
an email to Trish, saying:

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*The high level agenda for this meeting will involve
discussing our plans for the executive level
governance for the program, including organisation
structure and proposed contracting model and
approach.*

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And that, too, is the kind of dry run, if we can call it
that, meeting that you had described as most welcome that
SAP have had?---I don't see that as a dry run.

All right. Well, I'll take you back to page 2, please?
---Page 2?

Yes?---Yeah.

30

You'll see in the middle of the page, it says, "Thank you
for the meeting today," and then they discuss the following
plan:

*(2) our key issues meeting and workshop. At this
meeting we would prefer to keep the audience small
and at the executive level. Accenture team to date
and some other people.*

Which you see?---Yes.

40

And then on 7 August, there is to be the presentation of
the Accenture proposal for the whole of the day?---I would
acknowledge that, yes.

All right. And I will suggest to you that the - sorry,
you'll see at the top of the page the email says:

*Happy with these dates and formats, we'll just need
to get confirmation from the senior exec groups.*

50

---Yes.

Now back to page 1?---Yep.

"Diana's currently assisting availability of Gerard, David, Barbara and Terry to attend the session on 1 August." That's the first of those two that was proposed?---Yes. 1

And asks for the agenda. And it's that in response to which the email at the top of the page is sent?---Correct.

Which will involve discussing our plans at that level and so on?---Yes. So that is the agenda for the meeting. 10

Yes?---Yes.

And the meeting is to take place six days before the presentation of the proposal?---Timing wise, yes, I'd agree with that.

And can I suggest to you, it would be an opportunity for Accenture to provide its ideas and to get some sort of reaction from Mr Burns and the others at the meeting as to whether they were meeting its expectations?---Yes, I would agree that's an opportunity to present some preliminary ideas to the executive of Treasury, CorpTech, et cetera. 20

Correct?---Yes.

And to get their feedback in order for Accenture to incorporate, if there's any need to, that into their proposal?---Correct. It's an opportunity to test the ideas. 30

Correct?---But it's not what I would consider a dry run of a presentation.

Okay. Well, it might be a matter of words?---It might be a matter of words.

But if the objective is to give some idea - to tell ahead of the formal presentation on 7 August to tell CorpTech representatives what you have in mind and find out if that is meeting their objectives or if it's not, why it's not and where it's not. That's the kind of opportunity that SAP would have described as welcome?---Yes. 40

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And the kind of opportunity as you read it - - -?---
Correct. 1

- - - that is being afforded to Accenture in this exchange of emails.

COMMISSIONER: As I understand the debate, there's a distinction between gathering information legitimately via a supplier for the preparation of its pitch, if you like, or its tender, bid or its presentation to CorpTech and a dress rehearsal of a presentation put together to see how it might be accepted. Is that the distinction you're drawing?---Absolutely. It's a questioning, a gathering of information, a testing of ideas versus, "Here is our presentation - - -" 10

"What do you think of it?"--- - - - what do you think of it, and what is your input that suggests that we might improve the presentation?" That, to me, is the concept of a dry run. 20

MR DOYLE: All right. So it's all in the words, is it, in the description "dry run"?

COMMISSIONER: No, it's in the content?---No, I don't agree.

It's in the content.

MR DOYLE: Let me deal with the content, if I may. It's stating to the recipient of the recipient on behalf of CorpTech what you, the supplier has in mind to include in your proposal, you do that?---Correct. 30

And seeing from them whether that meets their expectations, yes?---Yes.

You would expect them to say whether it did?---I wouldn't necessarily expect that they would tell me "yes" or "no". 40

You'd expect them to offer some view as to whether it was deficient in some respects?---Give advice, give information, allow us to refine and develop our proposal as compared to, "Here is our presentation, here is what we're going to do and you critique and tell me how we should improve the presentation."

If the process is to test some of our ideas with CorpTech, that involves telling them what the ideas are and seeing how they react to it?---Or presenting some options, benefits and disadvantages of those options and testing whether or not we're on the right track. 50

It might be you go along with two options which may not be the same thing and tell them what the options are and see

which of those two they are leaning towards?---Or,
indeed - - -

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Will you agree with that, please, that's at least one
of - - -?---That is one scenario, yes.

And that's, you'd say, perfectly acceptable?---Perfectly
acceptable and necessary to make sure that we're not
wasting our time.

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So to go along to a meeting and say, "We're thinking of
two options," and then to come away from that meeting with
the government having told you that one of those it prefers
is okay, that's in fact what you'd expect to occur?---I
would agree, I would hope, yes.

But what's the difference with saying, "This is what we're
proposing," and someone saying, "Look, you could do it
differently which would be more acceptable to the
government." How is it different?---Because I think the
first situation is typically an activity that happened
through procurement cycles where you are trying to gather
understanding and make sure that you're building a solution
that will: (a) you have all the information that you need
to respond appropriately; and (b) you're building your
solution. I absolutely agree with that.

20

And is one of the pieces of information that you see as an
acceptable thing to be conveyed in a meeting that you'd be
happy to participate in, for the government representatives
to tell you which of a number of options is there preferred
one?---I would appreciate that opportunity, yes. I would
seek that out of meetings otherwise what's the point in
having them?

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And if the point of - we'll call it a "dry run" - but if
the point of the dry run was to ensure that the tenderer
had fully understood what it is the offeror had in mind,
that is, that CorpTech was looking for, and to make sure
that it was meeting the objectives that CorpTech had in
mind, that would be a perfectly acceptable thing to do?
---If the purpose of the dry run is to test and improve,
from a supplier point of view that's an acceptable thing to
do, I'd agree with that.

40

To test the supplier's proposal and improve if they can,
which can only happen by the provision of information in
the course of that meeting?---Yes, I would agree with that
and I guess it's how that is achieved that's sometimes the
difference between acceptable and less acceptable.

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All right. You know that there was, in fact, a meeting
held between Accenture and the executive people that we
looked at before?---Yes.

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And you received, by means I'm going to ask you about, an email which reports of one aspects of?---Well, I haven't agreed that I received the email, I think it's possible, but I haven't agreed that I have received. 1

Okay. Do you have a copy of exhibit 32 with you?---32?

Yes.

COMMISSIONER: Mr Doyle, I am not going to sit after half past 4 and I am not going to require people to come back on Monday. 10

MR DOYLE: All right. That's a matter for you, Mr Commissioner, I will not finish by 4.30?---So which particular part of - - -

I want you to go to the second sheet, please?---Yes.

And that's the email we're speaking about?---Yes. 20

And whilst you can't recall receiving it, it has the resonance of the kind of communication that you received from Mr Porter from time to time?---It's certainly the style of conversation that we would have, yes.

And you were a person who was in a position - at least you accept Mr Porter would think you're in a position - to be able to have the kinds of conversations with Ms Perrott that are contemplated by this document?---I would agree with that, yes. 30

Okay. So whilst you can't recall it, do you think it likely that you receive this email?---I agree that it's possible as I think there are a couple of points that concern me about whether I have received it, and we started to touch on those before lunch: (a) we were in a competitive activity against Accenture and there is information here that Simon may have shared with me at the time, there is information there that could be sensitive to Accenture. The other thing is that the last paragraph of the letter seems to me to suggest that there was an open dialogue about Mr Porter's pending retirement, and I have to say that at this point I have no recollection, absolutely, of his contemplation of retirement. 40

All right. Let's test it this way, let's deal with it this way?---Okay.

On the assumption that this came to you - - -?---Yes. 50

- - - you'd accept that it was sent at a time when, as far as CorpTech was concerned, SAP and Accenture were involved in planning to put in separate proposals for the way forward on the SSI project?---I would agree with that.

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There had already been an approach made by Mr Duke to explore the possibility of a collective proposal, and you've been told that the government would be disappointed not to received individual proposals?---Yes.

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That if this came to you it is plain, at the very least, Mr Porter was prepared for SAP to have what he would wish to describe as "commercially sensitive material about Accenture's bid"?---If it came it me he was prepared to share that.

10

Can we infer that you do not recall him ringing you first and saying something like, "I'm going to send you something but make sure you keep it to yourself"?---Yes, we can infer that was not the case.

You would remember if that conversation took place?---I may have, yes.

Sorry, Mr Pedler, if Mr Porter rang you in August 2007 and said, "I'm going to send you something but it's confidential Accenture and you may not disclose it to anyone else," you would remember that conversation?---Well, I would expect so, yes.

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So it's unlikely he had that conversation with you?---It's unlikely. 1

Okay. So that if this came to you, you were being made privy to what is said to be confidential Accenture material at a time when you are competing with Accenture - - - ?---Correct.

- - - in a proposal?---Correct. 10

Did you think that - tell me please if you can recall whether you turned your mind to whether that might distort the - whatever the process was then being undertaken by CorpTech?---No, I don't - turning my mind to it back then, I don't agree with that.

You didn't think about it?---I possibly didn't think about it.

Okay?---If I received the email. 20

All right. I know this is all premised upon you receiving it?---Correct.

You don't now recall thinking back in August 2007 this is something that will impair the - whatever, the RFP process that was being undertaken then?---No because Accenture were clearly would have been going ahead with their own bid and we were going ahead with our bid. I don't believe that this would have changed or influenced what we were putting together as our proposal. 30

Right. So you received - met me hypothesise - - -?---Yes.

- - - material which tells you something about Accenture's bid but your recollection is that you didn't act in any way differently based upon receiving that in the preparation of SAP's bid?---I would agree with that.

But you didn't - you don't recall ringing anyone at CorpTech and saying, "This has happened," or complaining that it had happened to Mr Porter?---I don't recall ringing anybody at CorpTech to make that complaint. 40

Okay. Now, one of the things that the email asks the recipient is to obtain some feedback about the Accenture meeting with the executives?---Mm'hm.

I know it's testing your memory but can you recall in August 2007 receiving a request to try to find out some intelligence about how the government had reacted to the Accenture presentation?---No, I can't. 50

The other thing it asks is for some feedback about whether IBM had had a similar meeting with some feedback about that. Do you recall that?---I recall that in the email

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here but I don't recall the request and I'm not sure that I would know in any case. 1

I know. You don't recall the email. I'm asking you whether you can recall receiving some request from Mr Porter to try and identify aspects of the government's reaction to the IBM meeting?---No, I can't recall that.

That itself is something had you received it in August 2007 you would recognize as being an improper request to make?---I would believe so. 10

I gather you can't - as you sit there now don't recall complaining to Mr Porter about him having made such a request?---No, I don't recall complaining to Mr Porter about that.

All right, thank you. Now, the email identifies that there is a transition-in period of up to six months, I think we have heard?---Yes. 20

If there is going to be a change from the way in which the SSI program was being conducted to the way it was going to be conducted under a new proposal, there would inevitably be a transition period?---Correct. Agreed.

Depending on what the concept was of the way the particular supplier was going to handle the new program, it would affect the nature and duration of the transition?---Correct. 30

That is something that you would have had to have assessed for the purposes of SAP's proposal?---Personally, I wouldn't have - I would have assessed that it needed to be done but personally I wouldn't assess what was reasonable or unreasonable.

Well, your company would have had to do so - - -? ---Absolutely. I agree with that. 40
- - - so someone with expertise would do that?---Agreed.

Having regard to whatever it is the SAP proposal was?---Yes.

Similarly, Logica would have to do the same and IBM would have to do the same and Accenture would have to do the same?---Agreed, that they should do that.

They should do that based upon their own proposal?---Correct. 50

It also identifies that there is about \$100 million left or that they say there was about 100 million left. That wasn't a secret by any means?---I don't believe that was a

- I don't believe that was a secret in government at the time. 1

Thank you. It also refers to proposal by Accenture to submit a not-to-exceed price or budget?---Mm'hm.

Can you tell me please if you can recall, did SAP put in a not-to-exceed proposal?---My - again, my recollection is that we put in a built-up price with a lot of conditions and assumptions. 10

Right?---But I don't believe we did a not-to-exceed position.

So having received this didn't - if you received it - - -? ---If I received it - - -

It didn't cause you to change our approach?---No.

To the way in which SAP submitted its proposal?---Yes. 20

By a built-up price, you mean a series of different packages or different items and lots of assumptions which go to inform those packages or those items?---Correct. Here is the approach, here is the concept and here are the assumptions and conditions and dependencies that make the price valid.

Thank you. Now, ultimately you know that there was an ITO issued?---Correct. 30

Did you receive a copy of it?---We did not.

Right, because you had by that stage said you didn't want to be involved?---Correct. That was the gracefully withdraw email.

So I take it you have never read it?---The ITO?

Yes?---Absolutely. 40

Thank you. Now, have you spoken to Mr Porter at all in the last year?---No.

Thank you. When did you last speak to him?---Here today.

Okay. So apart from today - and I assume that was only some pleasantries?---Yes. Well, here today and he called me - what's today? He called me two days ago. 50

Right. About what?---After he was - after he was here possibly on Tuesday to apologise for in effect me being here today.

Did he say he acknowledged he sent you the email?---No.

Did he say anything about him sending him - and that he sent the email to you?---Yes, he said that he can't think of who else he might have sent it to you but he can't be sure that he sent it to me either.

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Very good. Thank you. Now, whilst you still have that exhibit with you, please, will you turn it across to page 4?---Mm'hm.

To which you were taken earlier. I want you to assume that on 20 August, a letter was sent to all of the suppliers identifying Accenture and IBM as the two most highly rated and it was as a result of that that for business reasons you became discouraged and didn't further in the ITO process?---Correct.

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Okay. Had you been rated 1 or 2, you would have - - -? ---Agreed. Yes.

- - - remained involved in the process. Even if you knew you were rated number 2?---Agreed.

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Possibly even if you knew you were rated number 3?---Unlikely.

So the important fact if you like in terms of at least your company's decision whether it was - was that you were not identified as being rated 1 or 2?---Correct.

This email also identifies that IBM - that the offshore component of IBM's proposal is seen to be negative. Do you see that? Or may be seen to be negative - - -?---Point 3, agreed.

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Yes?---Yes.

And that you know that it would be possible for CorpTech in any formal ITO process to seek to have the tenderers identify where their resources are coming from?---I would expect that, yes.

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Okay. Thank you. If there was - let me start again. Is it your experience that in the IT industry, there is a lot of gossip and rumour about things? It's probably a hard question but it's a feature that you identified in your industry?---I'm not sure that we're unique as an industry.

Probably not. Can I suggest that there's a unique feature about CorpTech in that within the same premises, within the same offices really, there are people who are government employees and Logica and Accenture and IBM and SAP employees as well as contractors engaged by SAP, Logica, IBM and various other suppliers from time-to-time. Yes?---And contractors engaged directly by the government.

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Contractors engaged - - -?---Correct.

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- - - directly by the government?---Yes, I agree with you.

And it's a common feature that an IBM person might be working under the supervision of an Accenture team leader and IBM, in a sense, is someone who was engaged as a resource from IBM?---Is that a question?

Yes?---In this case, I think it is less common because there were discreet packages of work provided to different organisations and therefore having a (indistinct) of people from different organisations working in the one area together, I don't think that was probably a characteristic of this, but certainly you are likely to have had government, independent contractors, SAP, IBM, Logica all in the building and possibly sharing floors but not necessarily working for each other.

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Well, I want to suggest that at least one instance an IBM man was tasked to manage an Accenture team to do that? ---Okay. Well, I agree that's possible.

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And the same kind of thing is likely to have occurred from time to time?---Possible, yes.

Indeed, SAP was involved both on the HR and the finance side of the project?---Correct, we had it working.

But working with respect of the Accenture and Logica resources?---Correct.

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A number of those people, perhaps all of them, had access to the local access network at CorpTech?---I would expect that was the case, yes.

And they probably also had access to CorpTech emails, which might be the same thing?---They would all have CorpTech emails by virtue of being in the project, yes.

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So there would be hundreds of people who would know that the people working in CorpTech, that access to the LAN gives you access to a whole raft of information which was retained by CorpTech for its purposes?---Yes, I think it's fair to say that people would have LAN access, they'd have email access and hopefully their security would guide them into discreet areas.

Yes. That's what I was going to ask you. It would be of concern if an evaluation matrix or some scores or information out of the RFP process was able to be accessed and information about it disseminated within CorpTech?---It would be a concern.

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And it would be something that you would want to contact

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Ms Perrott about to check that it was stopped, if you knew that it had occurred?--I would expect so, yes. 1

Okay. And from a supplier's point of view, you'd be particularly concerned to ensure that your proposals were not able to be accessed by competitors?---I would take that as a given, absolutely.

Right. And if there was a hint that might be possible, you'd try to verify it if you could but you'd certainly complain to make sure that it was stopped?---Agreed. 10

Thank you. In your discussions with Mr Burns, do you recall him raising this proposition with you, that as the - the way it had been done, Accenture was managing the SAP HR roll out, build and implementation - - -?---Mm'hm.

- - - and that Logica was doing the finance part of it? ---Mm'hm.

And did he ask you, in effect, "Why don't you - why have a middle man? Why have Accenture between CorpTech and SAP on one side and Logica on the other? Why don't you do that"?--I don't recall that kind of conversation. We played - we were pre-2007, middle of 2007, we were engaged to provide specialist resources across the board. The other suppliers resources were there as a result of procurement activities. And I guess, again, we go back to pre middle of 2007, it was a government managed project and we were providing resources in to assist the government to manage the project; whereas, going forward, it was a prime contractor systems integrator project, so I'm not sure that conversation came up. 20 30

Well, let me test it. Prior to the change, so prior to the prime contractor change, the HR component was ultimately being built, the responsibility for the build of the HR requirement was Accenture?---Yeah. I think responsibility contracted to build it as opposed to contracted to provide resources to help the government build it is a subtle difference. 40

All right. Well, it's one or the other?---Well, my recollection of the procurement at the time was that we, SAP, were contracted to provide resources to assist the government to get the job done, but the government was ultimately responsible for the build and deployment.

What was Accenture's role, then, in the build and deployment of the SAP HR solution?---So my opinion is that they were providing project resources to support CorpTech to deliver the HR project to Department of Housing. 50

Okay. Well, do you recall a conversation in which Mr Burns said to you of the HR component, "Why don't you do that"? ---Not specifically.

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Do I understand you to say that it may have happened, you just can't recall?---It may have happened. I think - you know, I think again, going from the model as it was to a prime contractor model, if we were successful in winning the prime contractor procurement, then we would have been ultimately responsible for HR and other aspects of the role anyway.

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I'm really asking about an earlier stage, in May/June? ---I'm sorry but I'm struggling to remember specific details like that at the back of that point.

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All right. So it may have happened, you can't recall? ---May. It may have happened.

Okay. Well, I'll ask the same, might a similar conversation have then taken place in May or June about the finance roll out?---May have.

Okay. Can I take you back to your statement now, please? ---Yes.

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Would you go to paragraph 33?---Yes.

And the annexure C we're talking about there is the email ultimately that came from Mr Porter?---Yes.

And you say:

If you did receive it, it's unlikely that I would have sent it on to anyone else, but I cannot be absolutely confident that I did not send it on.

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Why?---Well, I can't specifically remember receiving the email. I can be highly confident, therefore unlikely that I sent it on, but I can't be 100 per cent confident because I can't recall receiving it, so I can't be absolutely emphatically 100 per cent confident that I didn't send it on.

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Well, see, the way you've put it is, "If I did receive it"? ---If I did?

Yes. Well - - -?---It is unlikely that I would have sent it on.

Okay. But obviously possible?---It's possible, I agree with that, and I think that's the point that I've made here.

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Okay. You can say that you did not send it to Mr Burns. You can say that with absolute certainty?---Absolutely.

But of Mr Bloomfield, you can say you're not certain but you don't believe you did send it on to him?---Highly unlikely.

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Right. But he was someone who would meet the description of someone with whom - let me put it differently. He would be a friend, or at least well known to check of you and Mr Porter?---I'd described them not as friends earlier but colleagues, absolutely.

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All right. Thank you. Can you turn the page, please?
---Yes.

Just let me pause for a moment. You say in paragraph 41:

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SAP was prompted to withdraw from the process because we knew that we are not placed first or second. I recall that we always thought that were an outside chance of winning the work.

When you say "always", commencing when?---We were perceived to be the product specialists and not the systems - not a systems integration organisation. So deep product knowledge, not project integration, large project knowledge.

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Was that a perception that you think was fair?---No. 1

So you recognised that the company was perceived as being a product specialist but not management specialists, if I can put it that way?---Project specialists.

You endeavoured to persuade people otherwise, but you recognised that message wasn't getting through?---Correct.

Your appreciation was that message had not got through? 10
---Correct.

And that was throughout the whole of from May through to August 2007?---Yes, agreed.

You say you may have communicated that belief to Simon Porter during the RFP process?---I may have. I think I may have communicated to Simon that I thought we might be struggling to be perceived as a systems integrator. 20

Do you recall when?---No, not specifically.

All right. Just excuse me. Thank you, I have nothing further.

COMMISSIONER: Mr Flanagan?

MR FLANAGAN: May Mr Pedler be excused?

COMMISSIONER: Mr Pedler, thank you very much for your assistance, you're free to go?---Thank you. And not return on Monday? 30

And not return on Monday?---Splendid.

(THE WITNESS WITHDREW)

COMMISSIONER: On Monday we have Mr Porter?

MR FLANAGAN: Mr Porter, Ms Perrott and Mr Bradley, so we may go a bit into Tuesday but we will try to finish on Monday. 40

COMMISSIONER: Is that timetable realistic you think, gentlemen?

MR DOYLE: No, I suspect I'll be longer with Mr Porter than with either of the other two. Broadly speaking, I would take less than Mr Flanagan but not by much, I think of Mr Porter. 50

COMMISSIONER: All right.

MR FLANAGAN: Mr Commissioner, just going forward, it's intended the parties put in written submissions and we were hoping, as I've indicated, for a date of 26 April. It's

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intended that both the state, IBM and counsel assisting put in written submissions on the tender process. Given that we're madly peddling towards the contract process, we were hoping that we wouldn't have to give oral submissions, but if you find that you would be assisted by short oral submissions we would accommodate that on the 26th.

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COMMISSIONER: I didn't intend, of course, write an interim report on this section of the inquiry because it's quite likely, quite possible at least, that evidence will emerge in the next session that will bear upon this. But I thought it would be useful if we could all collect our thoughts on what we have heard so far and make a record of them in the form of submissions before we all forget about it and move onto contract issues.

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MR FLANAGAN: Yes.

COMMISSIONER: What is convenient to all of you about putting in submissions on this aspect?

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MR FLANAGAN: I think 26 April suits us all. Finally, can I raise something I haven't raised with you?

COMMISSIONER: Before you go onto that - - -

MR FLANAGAN: Yes?

COMMISSIONER: - - - from my point of view, I don't require you to put in detailed written submissions, it's enough if some points are given with reference to the evidence in the transcript and exhibits, but I don't require formalised filed submissions, if that helps you.

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MR FLANAGAN: Yes. You might appreciate that the volume number for the contract evidence is around 15 volumes. Most of us at the bar table haven't had a chance to absorb that as yet. We were hoping that even though it starts on the following Monday, 22 April, ANZAC Day falls on - - -

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COMMISSIONER: Always 21st.

MR FLANAGAN: It's always on the 21st, which is the Thursday, and we were hoping not to sit, if possible, on the Friday because then we've got a full week of evidence on the following week on contract.

COMMISSIONER: We can do that. All I was going to suggest, if this suits you, we can start on the Tuesday rather than the Monday of the week after next, or would you rather - - -

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MR FLANAGAN: I think we're content to start on the Monday and have the Friday off.

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COMMISSIONER: All right, we'll do that.

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MR FLANAGAN: Thank you.

COMMISSIONER: All right. Adjourn, please, until Monday at 10 o'clock.

THE COMMISSION ADJOURNED AT 4.25 PM UNTIL MONDAY, 15 APRIL 2013

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