



SPARK AND CANNON

**TRANSCRIPT
OF PROCEEDINGS**

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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 20/03/2013

Continued from 19/03/13

DAY 8

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THE COMMISSION COMMENCED AT 10.16 AM

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GODDARD, KEITH RICHARD called:

MR HORTON: Sorry for the delay at the start, Mr Commissioner, we had a logistical issue to resolve.

COMMISSIONER: I understood that. That's quite all right. Yes, thank you.

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MR HORTON: Mr Goddard, yesterday I was asking you about some emails which appeared to evidence, dealings with IBM involving Mr Burns?---Yes.

I'd like to just continue that topic with you briefly but to move to a slightly later point in time?---Mm'hm.

That is to August. Might Mr Goddard be shown, Madam Associate, volume 32. The document I'd like to ask you about, Mr Goddard, the documents start at page 89 behind tab 26. Should be behind a tab saying 26.11?---Yep.

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Now, this is an email from Mr Bloomfield or some kind of an email by Mr Bloomfield, including you?---Mm'hm.

Do you recall receiving this electronically?---No. Look, I can't recall an IBM dry run. I presume given the time frame, that would have been in response to a dry run of what they were going to present, but, no, I don't recall that occurring or that invitation.

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So the date appears to be 1 August 2007, you agree with that, the sent date?---Correct, yes.

And the subject is "IBM Dry Run" and it's an invitation to a meeting on appointment?---Yes. Just prior to the RFP proposal would be put.

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Yes. So you remember attending any such presentation at or about that time?---No, not at all.

And you don't recall receiving this appointment request?---No.

And do you know what is meant by "IBM dry run"?---As I said, I'm presuming by looking at the date here running up to the RFP presentation, okay, that they would be talking about doing a trial run or run through of that.

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Yes, of the presentation they were to make to CorpTech?---Yes, as part of the RFP process.

I understand. And would you turn the page, please, you may have to turn two pages, to page 90?---Yeah.

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This appears to be an acceptance from you of the dry run appointment?---Yep. 1

Do you recall sending that acceptance?---I don't recall doing it, but it's there.

And would you turn over again, please, to page 91? Now, this is sent on 2 August 2007, invitation again to dry run, might be the same appointment postponed but it's an email from you. Do you recall sending that email?---Can you just clarify what this email is doing, is that resetting the date? 10

Well, I'm not sure. Could you tell us what this email appears to be doing?---Well, the previous one was the acceptance.

Yes?---I'm just not clear on what this one's doing.

Yes. The notice to appear says, "Accepted"?---Yeah. 20

Topic "IBM Dry Run", sent on 2 August?---I'm just not clear how that differentiates from the first one, the one we just looked at.

Yes. It's sent at almost the same time, if that helps. Sent date 2 August 2007 on both of them?---Yep.

3.38 - one at 23 minutes past, one at 57 minutes past?---I have no explanation for that. 30

Now, would you turn over, please, to page 92, an email from you to various people? Would you just read that to yourself?---92?

I'm sorry, from Mr Bloomfield to you?---Yes.

Yes, 92?---To Jan Dalton - - -

Yes?--- - - - CC'd to me. 40

Yes. Now, do you recall receiving that email?---So this is seeking a presentation with Gerard.

Yes?---And this is - well, that may be different to my assumption before. The assumption was on the date before that was leading up to a presentation of the RFP proposal, if this is a presentation to Gerard.

Yes. And the subject is "Extended Audience". Mr Bloomfield seems to be saying in the second paragraph, "We're happy to present to a wider audience; however, we request this occur on a separate session," you'll see in the second paragraph there in the second sentence?---Yep. 50

Now, if that's the case, does this accord with what you said earlier about it being a presentation which might have occurred as part of the or immediately preceding the RFP process?---I don't recall any of this. I'm just putting the pieces together with more presentation, the dry run was probably referring to something approached to Gerard rather than a preparation for the RFP process.

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Can you think of any reason why, if it was a presentation, it preceding the RFP, why there would be a desire by IBM to restrict it to an audience of Gerard Bradley, perhaps a few others, but not wider audience we've just spoken about? ---Yeah, I can not think of anything, you know, from this distance now, looking back, that would have been inappropriate, in my view, of being this close in proximity to the RFP process, unless they had some difficulty, but I can't recall any of that occurring.

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So having read those few emails, do you have any better recollection now of whether you might have attended that session or a session like it, involving IBM on what was described as a dry run?---No, I don't recall doing that at all but I can see the evidence there.

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I understand. And do you know whether there was anything called a dry run which Accenture or Logica presented, or - - -?---No.

- - - invited you to at or about the same time?---No, I don't recall there being a dry run from anybody, so - - -

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Was there dry runs after this period, after the August 2007 that you attended?---No, I don't recall going to dry runs of any type.

Thank you. Now, if you could just put that volume aside. I'd like to show you - I asked you yesterday about the topic of business case - - -?---Yes.

- - - in the context of project management?---Yep.

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I'd just like to show you some documents on that topic. Might Mr Goddard please be shown volume 28 of the bundle. Have you got volume 28 there, Mr Goddard?---Yes.

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Good. I'm going to take you to tab 25.27. It should be at page 591. 1

THE COMMISSIONER: 25 - - -

MR HORTON: 25.27, page 591, about three-quarters of the way through, or two-thirds of the body. Now, there's about four documents that I want to direct your attention to, Mr Goddard. They start at page 592 and they finish 594. If you just familiarise yourself with those?---I'm moderately familiar with this set so I can go through it generally but if you want to focus me on anything specific. 10

I don't particularly; it follows from evidence that you gave yesterday?---Yes.

You said that it was important to have a business case from a project management point of view for any - I think you were with realignment on this project?---Correct. 20

In these emails, there seems to be an attempt to get hold of a copy of the business case in late July 2007? ---Correct.

Can you tell me; you seem to have been involved in that request?---I think it got passed on to Joanne. Joanne was in some way in relation to the PMO and that was the channeling of the request and I think that the response eventually comes back - I think it was secured away and highly sensitive and, "No, you can't have it." 30

Yes. Did that request come ultimately from you for that business case?---I think it has come from Paul Suprenant from the IBM, channeling through looking for it so they can better position themselves for their bid. I don't think it came through me. If I did anything with it, I was passing it onto the channels that would normally own or have access to the business case.

And what would IBM's interest in the business case be as at 30 July 2007? Are you able to say?---They are approaching the RFP area zone. 40

Yes?---So I imagine they are wanting to understand what the government is trying to achieve from this process and the business case is the ultimate statement of that, so I imagine from them preparing a position, wanting to understand that, the drivers, I think it talks about, to be able to position themselves. 50

This is an activity though, isn't it, the state should have been interested in first because the state was the one receiving advice from Mr Burns about repositioning the project, about realigning the project. I think you accepted yesterday that would be a matter of interest to the project manager of the time to ascertain how it fitted

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in with the business case previously proposed for the initiative?---That's probably a fair call, yes. 1

And to your knowledge, was anyone - associated with you, anyway - requesting the business case form the state's perspective?---Not during that time, no.

But you think they should have been?---Certainly when all the information was gathered, it needed to be refreshed. There was talk about refreshing the business case and restating it. I think the (indistinct) was more targeting the people who were in that area and owned the business case to be able to start dealing with it. 10

Yes. To your knowledge, was it ever reappraised by the state at or about July 2007 in light of the advice being received from Mr Burns?---I think that's where I got to yesterday, was I didn't see any document that articulated the full business case. My view was all of the necessary information had been surfaced but I didn't see it clearly articulated but the right people had been involved with that. 20

Thank you. Now, can I turn to an issue you deal with you in your statement in particular and that's the issue of Workbrain?---Yes.

I'm sorry, you can put that volume to the side if its in your way. Now, you read at the time that the ITO which was issued in September 2007?---RFO or the ITO? 30

Sorry, called an ITO and by that I mean the document that issued on 12 September as part of what we will call the tender process?---Yes, ITO.

Then you read, did you, the responses of IBM to that ITO? ---I read the documents, yes, the responses.

Were you involved in the request for any clarification arising from IBM's response to that document?---No. 40

And were you involved in considering the desirability or otherwise of having Workbrain as part of the IBM offer? ---In the evaluation process?

At any time?---As part of the offer - well, in the evaluation process, there was a risk assessment that came up that dealt with that item.

Do you recall who issued that risk assessment, who made it? ---I couldn't - it came out of the evaluation panel, the 25 people, the different teams, each identifying risks and then pooled the risks and from that, that would have been one of the risks identified in that. 50

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Yes. Were you part of that risk assessment - were you part of making that assessment?---No, I was - then I led - I facilitated a workshop that then looked through all of the risks and tried to condense them down and give them different scorings but the evaluation panel generated the risks, I then facilitated the panel trying to consider consolidating their position collectively. 1

In your facilitation then, did Workbrain emerge as one of the issues belonging to risk?---Correct. 10

In a general sense what was the risk that was articulated by people participating in the workshop?---My general understanding was quite technical. There was a differentiator between the IBM bid and the Accenture bid, around that IBM was - my understanding, offering that the Workbrain product which is a rostering product are part of a set technology set that CorpTech was looking at, could be used in a broader sense and do awards generation or awards engine function I think they called it, rather than using the SAP functionality. At that point, they were using SAP to do the awards. There was discussion about that that took a long time and the claim from IBM was that they could get a percentage leverage - I can't recall what the percentage was but it was potentially by doing it faster in Workbrain rather than doing it in SAP. Technical people, then surfaced and basically said, "Well, we may well be able to do it faster in Workbrain but there are then consequences of having to integrate a large piece of software called SAP and a large piece of software called Workbrain, interface them and integrate them and make them work as a whole," so we could do one part in this but then you had the consequences of the integration factor. 20 30

Yes. IBM's proposal was the use Workbrain then as the awards engine rather than SAP?---That's my understanding, yes.

Whereas other responses, or at least one of the other major response, Accenture, was to put that function still in SAP? ---Yes. I don't think - there was a standard process at that time was the use SAP for the awards and I don't believe that Accenture has actually said to change anything. It was just (indistinct) position. 40

And is this a correct proposition, tell me if you can't give evidence about this but in fact SAP is the way that - historically anyway - would usually be done; that is, it would be usual practice to put awards as the engine in SAP rather than in Workbrain?---That's correct as far as I understand. 50

Yes. SAP is well-established in having that capability?---Yes. It can operate with that capability. The only reason they were adding Workbrain in the initial

part was either to give it greater work rostering capability and then it was by saying that it could do additional - take some functionality from SAP and do it in Workbrain.

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Yes. The alternative, I guess, was you leave the rostering function with Workbrain and take the awards engine into SAP?---Leaving it to SAP, yes.

Yes. Now, as a result of the workshop that you facilitated, what was the outcome?---The outcome of that was that the panel couldn't really make a decision on what the significance of that was because no-one really had advice within the panel of whether it could be done or couldn't be done. It was seen as a risk, but to be able to measure that risk, you needed additional information. My recollection was a sub-group or my recollection is that it was Darrin Bond. It may have been another and I think I put in my statement it could have possibly involved Phil Hood, he would have had that sort of position but I don't know. I'm reasonably confident it was at least Darrin, go and phone site references both nationally and internationally to see if they could get some sort of evidence or support that this had been done before and then that would help clarify the risks that were around this concept.

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Were you involved at all with following up those reference sites?---No. 1

Do you know whether they were ever followed up?---Sorry, I - we came back probably the day or two later in the evaluation process and Darrin - I'm pretty sure it was Darrin - came back and reported back what they had found in those site reference discussions. My recollection of that was that there was some icon organisations in Australia, Qantas or Australia Post, or something like that of significance. The reports there were that they were thinking about it and they had started it, certainly having conquered it, that is just connecting Workbrain in SAP and not necessarily - there didn't seem to be anybody using it for this extra purpose of the awards engine being Workbrain, it was really the complication of saying (indistinct). 10

COMMISSIONER: Mr Goddard, sorry, I missed your last answer. Would you say that again, please? I understood you're up to the point where you said some other organisations were thinking about using Workbrain but not had actually done it at this stage?---Okay. So Darrin came back and reported about what they had found nationally and internationally. I recall from a national perspective, there were a couple of icons, something like Australia Post or Qantas, some large icons, they may have been, at that time, looking to actually integrate Workbrain and SAP just to use it like CorpTech branches became using it as standard set, but to actually - they hadn't actually got to the point of integrating and using it. My recollection is there was no thought by those organisations for actually using then as - Workbrain as the awards engine, so merely just trying to get the standard bolted together and not to actually then have even thought about using it as an awards engine. Externally, internationally, I believe they came back and there was - it was either America or Europe, there was some organisation that was more advanced in its bolting together of Workbrain and SAP, but again I'm pretty confident, looking at just coming back, they hadn't contemplated using Workbrain in that additional awards engine capability. So it basically came back inconclusive as to whether it could be done or actually refuted it couldn't be done, so basically left in a position of, well, it's a risk, from a technical perspective, a significant risk. And if you were to take it as an accelerator and a benefit to that bid, you had two different points of perspective. 20 30 40

MR HORTON: Now, can I show you a document, please, and that's in volume 30? Sorry, Madam Associate, volume 30 for the witness. Thank you. Commencing at page 1206. 1206, Mr Goddard. This is the clarification questions that went to IBM and this is the answers to them. Were you involved at all in the preparation of the questions in this document 50

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or preparing the questions that went to IBM which are answered in this document?---Sorry, this is the bid? Okay.

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No, this is 11 October, so it's immediately after the bid's been submitted but part of the information evaluation process which followed?---Okay. So it was this ultimate piece of clarification information coming in?

Yes, 11 October, as you'll see there?---Right.

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Closing dates for the response was 8 October?---Oh, okay. Yes.

And I just want to show you the front of that document, then to take you in particular to - - -?---So your question was: was I involved in - - -

Yes. Were you involved in framing that specifically to IBM?---No.

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Thank you. I don't need to ask anything further about it, but I might - - -?---But it might have - no, generally that would come out of an evaluation group or team and that would have gone through procurement, I imagine, through that channel.

Let me take you to some pages in case I can jog your memory. 1216. Reference there to a reference site. Do you recall being involved in that issue, as revealed in that question in number 16?---No.

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And on page 1219?---12?

1219. Question 40 down the bottom in the shaded box, reference to Workbrain. Do you recall being involved in the framing of that question?---I don't recall being involved in that, framing of that.

Thank you. Now, can I ask you just to return to your statement? You can put that volume aside, if you wish. Still on the same topic, Mr Goddard. In your statement, paragraph 99 and 100, you mentioned a few things about Workbrain. You mention in paragraph 98, Shared Services being built on a falsepremise. 99 you go on to discuss Workbrain. Now, you expressed the view that unsubstantiated position in the last sentence there of 100?---Yes.

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On what basis do you say it was unsubstantiated. You had IBM's advancement of it in the tender response?---Yes.

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What else did IBM offer to your knowledge about showing Workbrain could and should be used for the awards engine component of the proposed system?---I'm just not sure what I can tell you beyond what we've just discussed about the substantiation, so that process of having gone to the

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reference sites, to me, was unsubstantiating the situation. I'm just not sure I can contribute any more. 1

Well, assist me, how would you normally substantiate a proposal that's made by a company like IBM - - -?---Yes.

- - - for a system such as this. Besides their advocacy of the position, of the proposal, what does one look for in a position like yours to substantiate an offer like that? ---The evaluation team rather than mine, I would say the evaluation team wouldn't put evidence but that could be done and in the world in IT, you go looking for reference sites that basically can attest to they have done that and the success of having done that. If you are doing it yourself, another way is to prove your contents. 10

Yes?---This is evaluation we learnt in a position to do proof of concepts that could be down the track.

Now, did Mr Burns take a different view on this topic from you about the appropriateness of using Workbrain as the awards engine?---Mr Burns, I would say, had a view that was more on the accelerator side and was more about the percentage gain. My instincts told me that there was a risk with it that we need to deal with to see - to offset whether that was a real cashable, if you like, accelerator. 20

Yes. And what was Mr Burns's view as he expressed to you about using Workbrain in this capacity?---Look, I don't recall specifically. We had general discussions around it but didn't generally - the mode and operation he was in, he was certainly quite pumped about the accelerator factor more than he was about the risk factor. I was, if you like, the counter-balance worried about the risk factor to substantiate the accelerator element of it. 30

Yes. So where does the issue end up in terms of the evaluation, tell me if you know or if you don't, the Workbrain use for awards engine issue?---My recollection of that is that it never really got the weight of consideration, so if we go back there was the initial risk management forum, with the whole 20, 25 people going through the risks. At that forum, we've conquered many of the risks or measured the high, medium, low risk impact, except this one, so then there was a hiatus and a couple of days later the report came through. Okay, we couldn't substantiate it. Then we sort of said the position was, well, what do we do about that and basically lost the momentum of thinking around the collective set of risks, and I guess people were tiring is my recollection of it. The verdict was driven pretty much by Terry: well, we'll put it as a contract consideration, roll it on to the next level, which is an element of danger because it may have arguably contributed to later balancing out the evaluation before you then move on with a party to the next step. 40 50

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Yes, and that view that you've just expressed of
Terry Burns: did he express that view to you?---Look, I
think it's probably fair to say that somewhere in that we
would have had a discussion around that, but I can't recall
an exact instance but we discussed many things on many
occasions.

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Yes. Were you involved then in framing what it was that
was

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to go in the contract to deal with this issue?---No. I do
note it went on a list that it went as we came close to
going to contract, there was a list of items that were
considered to be contract discussion or negotiation items
and it was probably through me hanging on to this concern
that we maybe get to that point.

Yes. Well, could I just take you forward, in case this
document is relevant to that - to volume 11, please,
Madam Associate, page 730?

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Now, just read, if you would, to yourself, pages 730 and
page 731 in particular?---Certainly my impression now,
number 4 obviously would be the item that covers that.

And in what context - I don't think this document was sent
to you, it seems, on 25 October 2007. In what context did
point 4 in earlier discussions?---In discussions in the
contract negotiations?

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Well, how did it come about that point 4 is added to that
document or did that document point exist - - -?---This
list here would have emerged from the evaluation process as
being key items wanting to be considered as part of the
contract discussions, so I think it was preceded, there's
an email around that preceded by asking people to nominate
items that needed to be part of the contract and probably a
consolidated list.

Yes. It says there in point 4, "Proof is required early in
negotiations"?---Proof of concept.

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Yes?---Yes.

Were you involved in any of the negotiations?---No.

Now, if I can just take you back to your statement,
Mr Goddard. You can put that volume aside. Now, you've
brought us to the point where you've said that the
evaluation team raised an issue about it that was to be
dealt with further in negotiations around the contract.
In your view, do you have a view about the adequacy of that
approach in a contract such as this?---Dealing with proof
of concept?

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Yes?---Yes, I think that's a good way to deal with it.

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Yes. And do you have any knowledge of whether it was ever done?---No. 1

Do you think it should have been done early in the process than in negotiations, if it was done?---Well, I would have thought you'd have to negotiate the position and part of that position we negotiate is the early or first delivery is a proof of concept to substantiate that position.

Wouldn't one need to know it at a slightly earlier stage given that one's weighing up various tender responses?---I think 10

it's the logistics that prevent that. You almost have to contract to get the proof of concept out but then to be able to position the contract to commit to go further forward.

But doesn't that lead to this problem, that I might be a tenderer and promise you the world, might promise something incredibly innovative, so innovative it's risky, but it looks good, I promise anything about what it will do, I advocate its virtues, I say how novel it is, but you are comparing that to people who might be offering a more orthodox, far less innovative approach, but how does one weigh up the tenders if that's the case without ever testing, if you like, the novelty of the approach proposed by one of the respondents?---Risk assessment, that was the purpose of the risk workshop. 20

Yes. And what was the risk attributed to Workbrain being used as the awards engine?---I don't have any knowledge of documentation bringing it back to that. 30

Do you know of anyone ever undertaking that assessment and attempting to quantify the risk?---Well, that was what that workshop was doing, it was measuring those risks, high, medium, low, if you like. I don't think it went down to exhaustive, you know, cost converting that to a cost element. It was pretty simple high, medium, low sort of risks and then on balance getting some position on that, but I couldn't tell you whether that was scored high, medium or low; I would imagine at this point it would have been scored high. 40

And it would have been, would it, for the evaluation panel as a whole, to weigh up that risk in its assessment of the tender bids?---Correct, but against potentially 10 other significant risks. 50

I understand. Now, you say at paragraph 83 of your statement that there was one unusual event?---Yeah.

I'm going to ask you a bit about it but is the unusual event in any way related to the evidence I've just asked you about in terms of Workbrain?---No.

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Well, would you tell us what the unusual event was? 1
---During the evaluation time, there was one team sort of -
the bias that they had determined a difference in how they
were evaluating compared to another team, remembering there
was sort of five sub-teams within the 25 people, so, if you
like, five teams of five. One team had determined at a
break or during the process that they were measuring off a
different basis and depending on which basis you took to
measure, you could get a different sort of view of the 10
world. Do you want me to take you down to what those two
different basis were?

Well, just in general terms?---Okay. In the tender, it had
components that were funded and components that were
unfunded. The components that were funded or actually
being offered as

part of the tender to commit to with funding were quite
small and trivial or administrative in nature, it was
really a matter of we were just offering: come on board, 20
capture all the work that's currently going on which has
got a bit of a tail, capture that and take ownership of it.
The real work was then positioning to actually take on
projects that were implemented, HR, finance, 35-odd
projects that we needed to do that to actually deliver.

Yes?---But that was unfunded. So the question had arisen:
was the base metric their ability to deliver the funded,
which is that relatively simplistic administrative 30
management, project management, program management overlay
or was it being measured on the greater, their ability to
do the management component as well as the delivery
component. Now, no-one was really in a position in the
evaluation panel or of itself to be able to determine that.
My recollection is we got in a room to tease out and
understand that was the difference, and then seek, which
I imagine was probably from procurement, some sort of
position on it because attention is: how can you measure
it on the whole lot if its only potential to do the whole 40
lot, you're really only offering what's been funded. So
the outcome of that, my recollection is, that they took the
small of it and could really only do it on what was the
funded element that program management capability. And on
that basis, there was arguably a differentiator because
Accenture had been on board, had established a capability
or an IP over a number of years, and were, as IBM were, off
to a cold start. So if you measure it on the greater and
the knowledge of the evaluation panel, the familiarity that
Accenture was certainly well entrenched in that capability,
you know, you've got two different starting positions to 50
compare from.

Yes?---So based on that clarification, my recollection is
the groups went back and then rescored based on that
clarified, "What is your starting position you're comparing
to."

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Okay. Was there a meeting before they went back and rescored?---So there was a meeting deliberated that and I think, my recollection, came up with that position, and then from that, we then followed on. What I'm not clear on is whether procurement were a part of that meeting or subsequently then engaged about the context of the meeting and made a deliberation before we then rescored.

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Now, who was present at that meeting?---Look, I couldn't give you exact names or people involved in that meeting. It would be myself and Terry as starting points but it would have been primarily the team that had identified the anomaly as putting to understand what the issue was and then I would imagine it went to procurement or the procurement was there and made a determination on it.

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Good. Can I show you a document case - - -?---Yes.

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- - - if it refreshes your memory, volume 32, page 106 behind tab 26? Now, this is dated 19 November 2007, so outside the evaluation period but I'm wondering whether that date is correct or whether this might jog your memory? ---So that's mid to late November, yes?

Yes. 19 November, it was sent; 19 November. Is that something separate?---Sorry?

Is this something separate from what you're discussing? ---I don't recall being involved in anything to do with the contract negotiations and set up right at the very beginning in sort of a group meeting.

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I understand. There is no possibility that this is an October document instead of a November document? It's just misdated, or not?---Sorry. 106? I'm looking at 106.

Yes?---The date stamp on that is 19 November.

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I understand?---It looks like an invitation - I'm not sure of your question, well, how can this be October.

I'm just asking; is it possible that this is misdated and this is a reference to the meeting that you were discussing. I'm not suggesting it is misdated, I'm just raising the possibility?---No.

Thank you. You can put that aside. So the rescoring that you have spoken about, on one view - on one of the approaches one takes it favours IBM, another view it tends to favour Accenture as incumbent. Is that correct?---I think you could say that because before the scoring my recollection was that Accenture were ahead. After the rescoring, IBM were but we weren't at the end of all the scoring activities.

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I understand. Do you know about how far through it was at this stage?---No, I couldn't tell you. It was, you know, halfway or further so it wasn't right day 1, it was a couple of days into it.

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Yes. So you said you attended that meeting, Mr Burns attended the meeting?---Yes.

Who else? Was there maybe someone from procurement?---I can't go any further than where I went before. I cannot remember. There was - like I say, there was one team out of the five. They rose the issue. They were primarily there to put the case and us to understand what the issue was and put some time to boil down - "Okay (indistinct) funded," it was a really interesting dilemma, I thought, you know, so we had to go through procurement. What I'm not clear on is was procurement at the meeting or was it then taken to procurement for a position - - -

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If procurement was there, would you know who it was likely to have been, the individual who is likely to have attended?---Maree, but I guess when I - I should probably clear it, procurement I'm rolling in that probity as well.

I understand. Maree Blakeney you're referring to?---Maree Blakeney was the procurement person that we did most of the business with, yes, but there was a legal services unit person that was running probity, so I should be clear that both of those would have naturally have been the people we were seeing because it was sort of touching on a probity issue at the same time.

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I understand. Now, what Mr Stone or Mr Swinson present for that meeting?---I don't recall John Swinson being at that meeting.

Thank you. In terms of the evaluation panel, who was there? Darrin Bond? Do you remember?---I'm searching for names I cannot tell you who was at that meeting.

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Yes?---It would be most likely Darrin probably would have been there but it was sort of like two parts to the process. One was understanding what the group's concern was or what that base difference was at the comparison. Once we had teased that out, it was then - okay, how do we deal with this now? I'm not clear whether we solved it at the second part at that meeting or if it was referenced back to people. I don't clearly recall John Swinson being involved in that process but he may have been.

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And what did Mr Burns say to the team members about the issue?---I couldn't tell you. I think the first thing was understanding what it was and, you know, it was a pretty complex thing. I think all of us or most of us got in thinking it was the whole lot, but it was a technicality that shrinks it down just to be that component and that was pretty - pretty interesting discussion because I think the intent was - and most of us when we got into this were talking about the whole package and the capability of doing the whole package but we almost had a bit of (indistinct) position, it was really the prime contract core component rather than the delivery.

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So if one based it on the funded component, that's the basis that would tender favour Accenture as the incumbent. Is that right?---Favourite from the perspective that they hadn't demonstrated that capability in the last couple of years at CorpTech where Accenture had been demonstrating that ability to deliver that.

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Yes, but on the unfunded component, favours IBM. Is that the way it works?---The unfunded would have favoured Accenture.

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Right?---The unfunded was doing, if you like, the 35 or thereabouts additional projects that are delivering the finance and HR payroll solutions to the agencies.

And why would that favour Accenture? Because it has been and doing some of the work?---Because Accenture has been there for the last number of years doing that work. There was another argument that they were thinking in the back of people's minds was those who had experienced some of that - well, Accenture is here, been here, doing that for the last couple of years and had made up their minds, you know, had in the back of their minds their ability to do or not to do that so it would have been some disfavour as well, if you like, from Accenture's perspective.

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Yes. If one looked at it from an office perspective, you think it would tend to assist IBM in its bid. Is that right?---I think that's clear from what is implied with the rescoring that IBM's position increased.

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You don't recall anything being said at that meeting at all by Mr Burns? Sorry, you don't recall what Mr Burns said at that meeting?---No, no.

What did you say at that meeting?---My recollection is that I facilitated trying to understand what that difference base of reference was that they were evaluating from because at first it wasn't clear. That's why we sort of took it aside from the evaluation process and took it into a room to try and understand what that was, so I think I facilitated - or I amongst others were trying to ask questions to understand what it was.

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Did you yourself give any advice to evaluation panel members on this issue?---I wouldn't expect so. The only advice I would have said is, "Interesting dilemma. Procurement are the people that need to sort through and tell us which way to go."

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But you do seem to be able to say that Accenture - immediately before the meeting was ahead on the then incomplete scoring?---That's my recollection, yes.

But later on, IBM is ahead, as it was after the meeting? ---That's my recollection, yes.

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And by reference to the issues that were discussed at the meeting?---Correct. **1**

Now, you say at paragraph 86 there was a view that they should rescore. Whose view was that?---That was the procurement.

Right. Maree Blakeney?---And probity.

Sure. Who is probity when you speak of probity?---LSU, Legal Services Unit which I think you said was John Stain. I mean, the name escapes me but the gentleman from Legal Services Unit that was assigned the probity responsibility. **10**

Yes. Later on in that paragraph, you said the verdict was to rescore. Whose verdict was that?---Same.

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And did Mr Burns ever express a view to you about whether the panel members as a result of what had been discussed should rescore?---I don't recall that, but quite honestly, I think the whole thing caught everyone off guard. It was a really interesting dilemma. Everyone just tried to understand what it was and made sure we took the right direction from there.

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Now, can I take you, please, to your statement where you deal with Mr Ekert? It's at paragraph 63 of your statement. This concerns a meeting where it's said that you claimed that Mr Ekert had a conflict and shouldn't be part of the evaluation panel, and you say in your statement you accept that probably occurred?---Yes. I can't exactly recall it but I'm happy enough to say it probably occurred. I give explanation there that generally - I don't think I've ever seen it in projects I've run, had people that are external to the organisation interviewing contractors, being part of the evaluation team. It just might be a conflict of interest, not necessarily at the time but potentially down the track. And if David was representing a company in what point I understood him was representing a company versus being internal, I would definitely have called that out. If I had known - I imagine if I had known it before the evaluation team and panel was being set up, if he was - if I knew at that point that he was a member or externally sourced, I would have been suggesting that he not be on it at that point.

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There was no then proposal, though, was there, for Arena to in fact partner with any of the tender respondents? ---Not that I'm aware. There could have been. These companies would potentially have consortium arrangements in the background. I think that part of the response - correctly, but I thought part of it was they had to explain any subcontractors they had arranged in the background. I can't recall whether that included or excluded Arena.

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Yes, but you would have wanted to be fairly sure, wouldn't you, before you called a meeting on the base of a conflict. You would have done your research before you do a meeting to say, "This fellow's in conflict"?---Possibly not on that basis. It would have just crossed from my view if he was external and through Arena or some organisation like that. I would have thought that was a position that needed to be looked at.

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But you were saying while that needed to be looked at, you were saying this fellow has a conflict?---Yes, and that conflict needed to be looked at and assessed.

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Well, no-one else at the meeting alleged that Mr Ekert had a conflict. Is that right?---Like I say, I don't recall the meeting. I'm talking about there that it did occur, not that, in turn, to say that it did occur, but my view

would have been, if I was calling out that conflict, it would have been on that position that he was part of another organisation which potentially - - - 1

Yes?--- - - - had part of, I didn't know, and I hadn't done that research, or could potentially down the track.

At that meeting, do you remember this, at that meeting it's decided Mr Ekert will not sit on the evaluation panel, do you not remember that?---No, I don't remember this instance occurring. 10

Do you know that Mr Ekert did not ultimately sit on the evaluation panel?---No, I don't know.

You said you don't know that he was not on the evaluation panel?---No, I couldn't list for you the 25 people. I would find it extraordinary if he was on there and if I knew that he was from an external organisation at the time, I would have probably made a position that was, in my view, a conflict. 20

You must have known whether he's on the evaluation panel, you've told us you were conducting workshops, you were facilitating sessions, you read emails that I've taken you to. You must know whether Mr Ekert was on the evaluation panel - - -?---At the time - - -

Sorry, let me finish, I'm sorry. You must know whether Mr Ekert was on the evaluation panel?---At the time, I would have known if he was on the panel, I agree. Now, looking back, I can't determine that. The second part is: I'm not clear in my mind when I understood that Mr Ekert was actually an externally engaged person who was certainly, initially, I understood, who was an internal person. 30

Now, it's relevant, is it, whether someone's externally engaged or an employed public servant to this issue?---That would have been the measure that I would have been judging by that point in time. 40

Now, did you know that Mr Burns historically had worked for IBM?---It wasn't on my mind. We probably had discussions about where he had been in life and where I'd been in life, but I didn't register that and didn't bring that to the surface as being an item.

It would have been - sorry. If he worked for IBM, it would have been very mature in your mind, wouldn't it, to him being involved in this tender?---No, the closer it crossed my concern was when you were scoring on the evaluation panel. Facilitating the evaluation process as I was, as Shaurin was, as a number of other people were, and Terry was, we all had different backgrounds of work, but we were 50

facilitating a process of people scoring. My focus was on the people in the evaluation panel not having a conflict of interest. I hadn't given a lot of thought, as I say in my document, to us facilitating potentially having a conflict of interest.

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But is that really how you describe Mr Burns' involvement? Does it accurately summarise Mr Burns' involvement to say he facilitated the evaluation process? Is that as high as you put it?---I think it's a reasonable term.

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Is it a - - -?---Coordinated, assisted. At the end of the day, you just need somebody to stand out the front, 25 people to be corralled. There's an agreed process to go through, break time (indistinct), yes, I think "facilitate" is a reasonable word.

Is that as high as you'd put Mr Burns's involvement in the evaluation?---Yes.

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So Mr Burns meets regularly with the evaluation panel. Is that correct?---The evaluation panel, I can't remember how many of those, it was probably more to five days, possibly - probably around five days. Progressive work through their evaluation process, Terry, Mr Burns and - it's okay to call him Terry, is it? Can I?

Terry will be fine?---Terry and Shaurin were pretty much there from beginning to end. I had a spot in the beginning where I think I opened it because I had set up the panel or established the panel and the arrangements, and the process we go through, outlined that and got the first session going. I came and went but at the tail end of the days I came back when it went into more collect forums, so the individual team scoring occurred, we went more into the risk management, consolidating the risk from a 25-people-wide perspective, participating some of those or leading some of those forums.

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He's lead advisor?---Oh, he was definitely the lead facilitator, if you like.

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Well, the evaluation report said he's project lead advisor. Is that an inaccurate description of his role, do you think?---No, I think that's probably a reasonable description of him.

And when there's a question about whether the scoring's been done properly, it's Mr Burns who goes to the meeting to coordinate or advise the evaluation panel members, isn't it?---I think he was there as a lead person to understand what the issue was and coordinate, bring about resolution out of it, as I was interested in doing that as well.

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Well, to advise on resolution, I would have thought?---I'm not sure at that time that's - advising not necessarily on the content of scoring but on the, "Well, this is what we should do next", and in my view, that was my understanding, that was going - get procurement, who were the ultimate authorities on that, and probity, and make a decision on the next step.

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As a result of whatever took place at the meeting, you accept the scoring changes. The meeting occurs and the scoring changes?---Yes.

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And I'd suggest to you that Mr Burns's involvement, by virtue of having attended, that meeting alone shows he's performing a role well beyond coordinating?---I'm still comfortable with the word "facilitating".

Now, can I ask you about a Mr Darrin Bond? Do you know Mr Bond?---Yes.

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Now, did you meet with him ever with Mr Burns present, just one on one, as in two of you with him?---Infrequently. I think there probably would have been meetings that occurred. 1

Yes. He was an experienced public servant. He had been at CorpTech for some time?---Yes.

He was relatively senior in the scheme of things?---Yes. 10

He was under Barbara Perrott?---Yes.

He had a reporting line through Barbara Perrott to Gerard Bradley and so forth?---That would be my understanding, yes.

And Mr Burns, I think it has been explained, had a reporting line direct to Mr Bradley as well?---My understanding is he did, yes. 20

Met with him regularly, met with Mr Bradley regularly? ---Yes. I couldn't tell you how frequently, but weekly, fortnightly would have been the sort of time frames, I would have seen, yes. 20

Were you ever present when Mr Burns discussed with Mr Bond about reporting arrangements to Mr Bradley?---Not that I recall specifically.

Did Mr Burns ever express to you any tension or dissatisfaction with Mr Bond being able to report through the appropriate channels to Mr Bradley?---Not about reporting structures. I mean, there was tensions in play with Darrin's role and knowledge and position but not around reporting. 30

What sort of tensions?---Darrin was driving the bulk of the work of the systems delivery component, so he had, as you say, a senior position. Most people in the program were reporting to him, or many of the people in the program were reporting to him. Basically in the scheme of things, delivery, he was doing that well. The tensions existed that we had utilized some of the brains trust, so some of the senior people to establish a forward projection of time. Now with that, I don't think that Darrin was fully onboard with the magnitude or the time differential that was producing and I think the tensions there were that as upper reporting was going on - this was leading up to the situations - you had one school of thought through Darrin saying, "Yes, we might be out, but the measure of out is not the magnitude that was necessarily coming through," so there is differences or view that I guess leaves upper management in a - they had two views coming; from one that is driving the main engine room, has a view - okay, it might be slightly out but we can manage that. We have the 40 50

other view which is saying it is significantly out, we need to do something about it. I think that set off the tensions about - well, from upper management, which are we going to take? Do we have allegiance to what has been having and a long-time trusted public servant, or do we have it now from this independent or separate project coming through putting a different position, so those are the tensions that in my view, if Darrin had an opinion that aligned with the project, the rebuild project, there would have been a totally different progress of things but that is speculative.

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This is the difference you're talking about, is Mr Burns' accelerated approach and Mr Bond's not accelerated approach?---I'm not sure it's about the accelerators. I think it's about the differentiator - is there a problem or is there not a problem and what that magnitude of that problem is.

Do you suggest Mr Bond didn't see there was a problem?---I think Darrin would have been speculative. I think Darrin would have recognized there was - you know, the program was under pressure as far as being able to deliver in the scheduled time but I don't think his view would have been that it was of the magnitude being declared by what the rebuild project was saying, you know, three or four years or difference.

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By "rebuild project", you mean Mr Burns, don't you?
---Correct.

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Because he was the rebuild project at this time?
---Respectively, yes.

Yes. So you said that Mr Bond wasn't on board with time reporting. On board with who?---On board with what, sorry?

You said that Mr Bond was not on board with time reporting. On board with who?---On board with time reporting?

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Your words. On board. On board with who?---I think in that, I was giving the context on board with the reporting of the scheduled difference.

Yes. On board with who? On board. Who is on board?---On board with the - or equivalent with the rebuild project.

With Mr Burns?---With Mr Burns.

Yes. So he wasn't on board with Mr Burns, took a different view, you said. Then you have referred to Mr Burns as independent or separate. That's the way you describe Mr Burns, independent or separate?---The rebuild program in my project in my view was just sort of a side appendage to the Shared Services program. The Shared Services

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program was moving forward, we had this rebuild project sitting beside. It think we talked about it yesterday. My understanding was that it was going to work through and come up and propose how a program should change. There was tension that I saw, elements of the structures were brought in early and starting to take over PMO solution design authority and things like that which in my view was premature because we hadn't actually established what the rebuild would look like.

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This wasn't a tweaking of an existing initiative?---No.

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As you said, it was a rebuild?---Well, it was a realignment in my words. You needed to realign first and then rebuild.

With a fundamentally different project management model of having a company from outside do that role as well as deliver the services?---Or find a large amount of money and pour it in to what was already happening.

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Now, did Mr Burns express then dissatisfaction to you about Mr Bond not being on board with him about these matters?---I don't think it was described as dissatisfaction. There was just the two views of the world that were heading upwards as you pointed out before to the under-treasurer. Darrin's view, and I don't know, I'm only speculating, I imagine Darrin's view was it was - the amount of outage was thinner than what the rebuild project was advocating, yet the source of the information that the rebuild was using was using the brain trust of people out of Darrin's team and I found that a little bit difficult that it was Darrin's team members, brains trust, deriving this key information that the rebuild project was using and so we had this tension that the degree about it was probably being distorted, and as it goes up, two messages were going up, one, we're out but we're only slightly out; the other one saying we're significantly out. I'm speculating.

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So you never spoke to Mr Bond about his views on this topic?---There were meetings where - workshops, meetings, things like that - where I was present where Darrin would mention things. I never sat down necessarily with him and discussed them one-on-one but in the environment that we were working in - - -

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So where did the views come from that you're attributing to Mr Bond about not being on board? Are they your views? ---Yes, they are my views, and it would have generated over a longer period of time than the - from the April period. I had had exposure back a year or so, so this was stemming on from work I had personally done earlier.

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Do you recall attending a meeting with Mr Bond with Mr Burns of which the topic of reporting to the under-treasurer was discussed?---Not directly, no

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Do you remember Mr Burns telling Mr Bond that he wasn't permitted to go to see Gerard Bradley any more?---I couldn't see why he would be telling that. Darrin would have perfect knowledge and position to be able to go and talk to the under-treasurer but Darrin would normally have done that through Barbara at the time or Geoff.

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It has been suggested that you were present at the meeting, which is why I'm asking you that?---I may have been present at the meeting but I don't remember a meeting being discussed about telling Darrin that he can't go and see the under-treasurer.

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Do you remember Mr Burns ever expressing in your presence to Mr Bond a level of dissatisfaction or irritability with Mr Bond about him reporting his different view to the under-treasurer?---No, I can't remember a specific meeting about that.

It would have been quite inappropriate, in your view, for an outsider to be telling a long-time public servant not to report to his under-treasurer?---Well, it's strange telling him he can't report to an under-treasurer in the first place. Secondly, if it was a long-term employee, even more so, yes.

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Yes. Now, it seems from your statement you end up having somewhat of a falling out with Mr Burns. Is that a fair conclusion?

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THE COMMISSIONER: Before you go onto that topic, Mr Horton; Mr Goddard, I got the impression from your last series of answers that you thought it would be a bad thing if the under-treasurer were given two conflicting opinions about the malfunctioning - to use lack of a better word - of the Shared Services Solution program. Your view and Mr Burns' view was that there was gross delays and substantial budget overruns. Mr Bond took a most senior view of things?---Yes.

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And you seem to be saying - perhaps I misunderstood you - you seem to be saying that if those two opinions were given to Mr Bradley, that might be a bad thing, using a poor expression. Is that what you're saying?---I'm saying if I was - I'm speculating on that. I don't know what Darrin was thinking, but I'm speculating that if that was what was happening, the under-treasurer getting two measures, the under-treasurer has to determine which one is he being guided by and establishing the position.

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Did you think he should be sold from that dilemma of him choosing between the two options?---Sorry?

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I'm wondering whether Mr Bond wasn't warned against speaking to Mr Bradley so that one opinion wasn't given to the under-treasurer?---I don't recall that having been expressed but it would be inappropriate if that was expressed, he can't go to the under-treasurer - I wouldn't have thought that would have stopped Darrin, if he needed to see the under-treasurer, but Darrin would normally do that through management structures, Barbara or Geoff at the time.

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MR HORTON: You seem to have somewhat of a falling out with Mr Burns?---A falling out? As time went on, particularly towards the latter end, we sort of, I think, moved to be not so aligned in our thoughts and work.

Using the word "aligned" but I get the feeling it's a euphemism for something more?---I think it - my expectations are this whole process, the rebuild or the replan in phase three was to culminate a check point with a business case, or the equivalent there of cross benefit risk analysis. It clearly annunciates we now agree this is the best way forward and we'll go and do it. The determination to go prime contractor happened, in my view, before we had that articulated or clearly stated that I was in - that was visible to me. So that was my discomfort with that to elect to go down this channel and I, in my view, hadn't seen the full - all of the information was around, there's no doubt, all of the discussions, all the risks, all the different strategies were there, so it's a matter of simplifying that and being able to say quite clearly, "Here are our options and we choose this one," but having seen a document that articulated that so everyone said, "This is why we're doing it."

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And is that the point that you say most distinguishes your approach from Mr Burns?---Well, it wasn't, like, overnight but that was one of, certainly, a point where I felt more out of alignment. I think it's different - two different personalities or work ethics. I worked from the basis of getting to a sync point and having that locked down and it was really - then you move to the next one. My assessment of the way Terry worked, it was far more fluid and it had verbal agreements or understandings, the momentum kept on

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working through. I like to get the point and sync point them so we all had an agreed position that was locked down.

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And not only that; you've told us Mr Burns was an accelerator approach?--A lot of the things we were looking for were accelerators but we were looking across a broad section beyond accelerators.

Yes. So is that the point at which you were unaligned or disaligned with Mr - - -?---As I say, it was a progressive thing. I don't think at any specific point in time, but that was certainly one element where I had an increased - a significant increased level of discomfort.

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Well, there's a point in time at which you're sidelined, that's your word used by Mr Burns?---Yes.

Paragraph 89?---Sidelined - the timing for that I put late in the evaluation process, so just as it was moving from evaluation into contract, and I think at that time I got moved out of the room that we were sharing and moved somewhere else, and things moved on.

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Were you told why?---No.

Before you were moved, did you express to Mr Burns your dissatisfaction with not having the business case assessed in the way you've explained?---Not specifically would have brought about that decision at that point in time, but I certainly had many discussions in background and I would have mentioned or indicated that wasn't aligning with my comfort zone and, you know, yes, so - but not that - I wouldn't see that as being a trigger from that date on, all of a sudden it became a cold relationship, it was - - -

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Did you get the impression you were sidelined because you didn't agree with Mr Burns on every matter?---I think there was a - I don't know but my speculation is that I was talking in the background particularly to Shaurin, people like that, saying, "I'm not comfortable. Things are going off. You know? Things aren't right; they're going, you know, off track." And I imagine through, potentially Shaurin, it probably got back to Terry and, you know, isolation started to occur from there.

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And Mr Burns isn't a man who likes dissent. Is that right? ---Mr Burns - - -

Mr Burns is not a man who likes dissent?---Likes to?

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He is not a man who likes dissent?---No, absolutely not.

That's the examination of Mr Goddard.

COMMISSIONER: Yes. Mr MacSporran?

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MR MACSPORRAN: Mr Goddard, I'll take you to your statement, paragraph 37. Do you have that?---Yes. 1

And at early paragraphs, if you need to glance at this, but the time frame you were speaking of there would have been around April and May 2007?---That's correct.

You then go on in paragraph 38 to set out a number of subparagraphs of issues that needed to be addressed at this time. Is that so?---Yes. 10

I'll take you, in particular, to the next page, subparagraph (n). You speak there of a LATTICE software being considered to be near obsolete?---Yes.

Can you tell us what - can you give us some detail of that, what you understood at that time the view was about LATTICE, LATTICE software?---I can tell you my understanding of it. Philip Hood would be the person who would probably be the point of reference I went getting information from. My understanding was that the LATTICE software was no longer being developed, possibly or supported. The company, I think, that owned it was Mincom and I understand Mincom had actually moved on to a different product, and I think, as I understand, it wasn't basically a new generation of LATTICE that it had moved onto, it was a totally separate product, so if you chose to follow the Mincom stream, you could have been working into a different product. So basically the (indistinct) of LATTICE no longer had any development going on and had a thinning support base, probably only to service those ones throughout the world that still had the product. 20 30

And can you tell us whether that view you express in subparagraph (n) was a widely held view at that time? ---Yes, I think that's fair to say.

Was there any view that you had heard at that time that problem with the LATTICE somewhere was not really an issue to be dealt with?---I think there was an accounting position that said well, "It's been like that for a number of years and we've been holding on," so there was one party saying, "Okay, we've done it for a number of years," but as time goes on it gets more and more at risk because there's less and less support base and international recognition of that product. So different measures, different people, yes. 40

But in terms of numbers on each side of the ledger - - -? ---Yes. 50

- - - by far the rated numbers have concern about the LATTICE software and the risk of - - -?---I think the fairest way to put that is that people in the know, and I would be saying in Philip Hood's area who had

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responsibility for supporting that area, were probably
great (indistinct) that it was of risk, it needed to be
recognised. 1

All right. Can I take you then quickly to paragraph 83?
We spoke most recently today about the unusual events which
led to a panel rescoring arising out of this incident?
---Yes.

I understand you to say you were not present for the entire 10
evaluation process, you came and went as it were?---Yes.

But tell me this: was that event where there was a
rescoring the only such event that you had in the
evaluation process?---Such event as what?

Rescoring, any rescoring?---Oh, yes. That was - yes, that
would be - yes, that is the only one I can think of, that
was rescoring.

And although you might not have been present, did you hear 20
of any other event, did anyone tell you there would be
another event where there'd been a rescoring of scores?
---Not that I can recollect at this point, no.

All right. Thank you.

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THE COMMISSIONER: Yes, Mr Doyle? 1

MR McDONNELL: Excuse me, commissioner, if it's possible to address you; Justin McDonnell from King and Wood Mallesons representing Mr Swinson. Mr Doyle has kindly informed us that he will be about an hour and a half examining this witness. With the timing, he is going to take him into mid-afternoon. Mr Swinson is flying out to Rome tomorrow morning, something which we have told the commission for a number of weeks. We are just unsure of the timing, whether Mr Swinson will be able to give his full evidence this afternoon. I wonder if it would be at all possible - - - 10

THE COMMISSIONER: Mr Horton, what do you have in mind?

MR HORTON: We have done our best to accommodate for Mr Swinson, Mr Commissioner. Immediately after Mr Goddard finishes, we will have Mr Swinson in. I won't be terribly quick with Mr Swinson; I will be about an hour or so, maybe just less than that, so subject to my learned friends - would foreshadowably be finished today, albeit at the end of the day. 20

THE COMMISSIONER: All right. If Mr Doyle finishes his examination by 1 o'clock and we start with Swinson at 2.30, you will go to about 3.00, would you?

MR HORTON: Yes; a bit longer than that, 3.15 or so. 30

THE COMMISSIONER: How long do you think you will be, Mr MacSporran?

MR MACSPORRAN: I will be very brief, commissioner. The difficulty (indistinct) but presently, a number of minutes only.

THE COMMISSIONER: All right, thank you. Mr Doyle, do you know how long you will be? 40

MR DOYLE: On the basis of the statement, not terribly long. I should say, if it's of any significance, I don't mind if Mr Swinson is interposed and we resume Mr Goddard after that, but that's a matter for you.

THE COMMISSIONER: When is Mr Swinson going to Rome?

MR McDONNELL: Tomorrow morning.

THE COMMISSIONER: Mr Doyle, do you think you will finish with Mr Goddard by lunchtime? 50

MR DOYLE: Probably.

THE COMMISSIONER: All right. Mr McDonnell, what we might do then is resume at 2.15.

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MR McDONNELL: Thank you, commissioner.

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THE COMMISSIONER: All right. But we will finish with Mr Goddard now.

MR McDONNELL: Thank you, your Honour.

MR DOYLE: Thank you.

Mr Goddard, can you go to your statement, please? I want to take you first to paragraph 5. This is in that part of your statement which deals with background matters?---Yes.

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And you say as you understood it, Accenture had the contract to resource the HR payroll stream?---Yes.

Then you say IBM, the finance stream?---Yes.

You would know that to be wrong, don't you?---In recent papers I've read, yes.

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Sorry.

THE COMMISSIONER: Mr Doyle, what paragraph is this?

MR DOYLE: Five.

You know that it's Logica that had the finance stream?---I do now, yes.

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You do now?---Yes.

Did you not know that back then or had you forgotten?---No. No. I didn't - no, that was my reflection of what I knew up until a handful of days ago.

All right. And if I were to suggest to you that there was an approach made to IBM unrelated really to the ultimate prime contractor ITO for it to become responsible for the provision of Workbrain as part of the rollout, does that sit with your recollection of things?---My understanding is and again, it was probably recent readings that either brought that recollection back is that IBM had the ownership over the rostering component.

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Yes. I know these are words that are used in your industry but Accenture was contracted to roll out the HR system. Yes?---I have no knowledge what the technical basis of the contracts that I'm working on, basically the philosophy of what I saw operating in the environment, I can't tell you exactly what the contract said but Accenture definitely had a footprint that I saw in the HR area. I understood that back then, IBM had a cost of finance but I can't say I saw any footprint that they had there and that was probably how it explains - because it was Logica (indistinct) equally I

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don't recall seeking a kernel of Logica or a group of Logica in the finance area. I thought it operated across independent of whether it was Accenture or Logica or IBM people at the time.

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Okay. Just focusing on what happened a little later on, in about April through to June 2007 in that period, you know, do you or can you recall that there was a proposal that the Workbrain system which was going to be rolled out for rostering be rolled out by IBM?---That would make sense. That was in the program, one of the program activities, yes.

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Someone had to do it and you know that it - - -?---I don't know details of it but I understand that activity needed to happen and that the first payroll being delivered didn't have rostering and one soon after that needed to have rostering, they were all working to integrate that product or look to integrate that product to deliver rostering.

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Right. I will actually come later to show you some documents where you were involved in the discussion of that event; that is, IBM being responsible for the rollout of the Workbrain rostering system. I'll come to that?---Okay.

Still on paragraph 5, you say this: "I had no problems discussing workshopping, utilising resources from these suppliers with courteous approach/requests." So can we just take that sort of individually. It must be so that you had discussions, workshopping and utilized the resources of those suppliers throughout the whole of the time that you were at CorpTech, or involved in this project?---Yes, but I was at CorpTech for a period of two years and there was a hiatus in the middle where I was at an area that was pretty much unrelated or didn't tangle with Logica and IBM et cetera so yes, in general, technically there was a hiatus in the middle.

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Sure, okay. Putting aside the hiatus when you were doing something less interesting than this, you had no difficulty at all going and talking to representatives of Accenture, Logica, IBM, SAP and lots of others?---The best way to describe it is I went and talked to people that were running - performing a role and I didn't say, "Is that person an Accenture person or an IBM person?" I went up and worked with them or utilized or talked to them based on the rollout of performing rather than where they were sourced from.

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Okay. In order to obtain, if it were relevant, an understanding of what they were doing or for them to discuss with you any issues that arose in the course of what they were doing. Would that be right? It's the nature of the discussion?---Can you ask the question again, sorry?

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Yes. The content of your discussion would include, at least, you finding out what this particular person or group was doing and discussing with them any issues that arose in respect of what they were doing?---The context normally was if there was an issue or a problem, I might be briefed and ask to go and look at it and then I would be pointed at this group or these people and I would go and talk to those people in an attempt to resolve the issue at the time.

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Okay. So if you, Mr Goddard, were asked to deal with a problem, a way in which you would go about embarking upon that would be to speak to the people in the engine room who are dealing with the problem or the issues that give rise to the problem?---I think that's fair to say, yes.

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So that they can tell you what they know about it?---Yes.

Offer suggestions about how it can be overcome, if at all? ---Yes.

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How it can be done differently if that's possible?---Yes.

And I assume it's a two-way conversation. You don't just stand there and let them listen, you tell them what you perceive as the problem or what you have been told to investigate?---Yes, I go in there with a brief.

A brief, namely the identification of the problem?---Yes, okay.

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And so you would have to tell them what the problem is? ---Yes.

You might try to explore with them possible means of overcoming that problem?---Yes.

By discussing it with them?---Yes.

Encouraging them to give you the benefit of their knowledge?---Yes.

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And to do so in such a way which informs you what they think is a means of dealing with that problem?---That's reasonable.

It's the whole idea?---Yes.

Good, all right. Now, would you turn across, please, to paragraph 26? You commenced there to deal with the Arena review period. You call that replanning part 1. Do you see that?---Yes.

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You have got dates 9 to 20 April?---Yes.

Any particular reason?---That's my understanding of the period that it took, it was loosely called the five-day review. I think I said yesterday there was a period of time which seemed to dwell before the final document came out.

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Right. And you were involved with Mr Burns and Mr Uhlmann, and this is what's ultimately described as a snapshot review or something of that kind?---That's fair, yes. 1

And would it be right to describe it as a desktop review? ---I think it was said yesterday it was a document review, we identified the documents that were possibly useful in the group reviewing to determine the position, formal positions and also then interviews, so basically leveraged off that. 10

Okay. It all took place within a space of one or two weeks?---Most of the discussions happened within the first five days, the other part was in the fine tuning of the report before it then got presented.

Now, Mr Burns had some involvement in that process, you've told us?---Yes.

But it would be fair to say that he had no - I think the language you used is "foundation knowledge"; he had no knowledge of this project, so he had a very long way to catch up?---Yes. 20

And it would have been impossible, in a sense, to do that in this period of 10 days or whatever it was?---Very difficult.

Right. Were you aware - so - - -?---Maybe I'll qualify it. In the detail - - - 30

Of course?--- - - - skimming across the surface, you would pick up the tone from the documents and the discussion, you'd pick up and be able to form a view that the depth of his analysis would be very thin.

Of course, and I accept that. He would have had - would you accept the description of: superficial understanding of things but not an in depth one?---Correct. 40

I just want to show you something before I move on. Can you be shown volume 27, please. Do you have that?---Yes.

Would you open it, please, at page 5? You should have there a SSS implementation proposed conceptual model by IBM dated 12 March 2007. Can you tell me, please, if this was one of the documents that you reviewed in the course of your snapshot review?---If we went to the attachment and it's A, which I don't have with the document here, but my attachment A listed the documents that we targetted for review. 50

Well, you don't have that, do you?---Not in front of me.

I'll see if Mr Horton is kind enough to provide a further copy of that. You've got that attachment now?---I have the attachment. 1

And does it help you?---Can I take a moment to skim through and see if I can find it? I don't believe it's in that list.

Okay. Well, can you tell me, please, have you seen it before?---I'd have to take some time to have a look through it. 10

I'll help you. Turn back a page to page 4. You have there an email from Lochlan Bloomfield at IBM to Geoff Waite of CorpTech. You know who Mr Waite was?---I do, yes.

And he was then the CEO of CorpTech?---Yes.

Being provided with something, an email says, "As requested." Do you see that? Then if you go to the document itself, turn to page 5 - sorry, page 6 now. You'll see it starts under the hearing "Background", this document is in response to a request from Geoff Waite? ---Mm'hm. 20

Then skip down to the third paragraph, "The document first presents what IBM believes to be the current challenges with the SSS program. We then outline a high-level conceptual model of how CorpTech and Queensland Health will interact" et cetera?---Yes. 30

Now, do you recall being aware that Mr Waite had asked for that kind of thing from IBM and that there had been some response to it even before your snapshot review?---No, not at this time.

Okay. Thank you. Now, you'll need to keep that volume with you, I think, for some other things but if you go back to your statement to paragraph 35. We refer to those notes that you've just been looking at?---Yep. 40

Were they documents you prepared back in 2007 or were they notes prepared in 2007?---Yes. As a result of participating in that five day snapshot review, those are the notes I took. I probably scribbled them down and put them on a spreadsheet, and sent them out to advise the end of the day, end of the five days.

Right. Of the activities you and others have engaged in over those five days, whatever it was?---Effectively a plan saying, "This is what we're going to do over the five days." There is a list of people who are going to be interviewed, a list of documents people are going to look at, and that was fundamentally the activity that was going, I'm told, over that five days. 50

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Very good. Well, can we just look at the people you're going to interview from that list. Has it been taken from you?---Yes.

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I'm sorry. Well, I'll read them out, if I can?---Yeah.

Megan Janke?---Janke.

Do you know what organisation she was from?---SAP.

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She's a representative of SAP?---Correct.

Karen - is it (indistinct)?---(indistinct) she was a senior person in Accenture on the HR/payroll side.

Right. Gary Walden and Melissa - is it (indistinct)?---I think Gary and Melissa, I may be corrected here, I think they were more on the organisational change management rather than the technology side.

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But from which - are they within CorpTech?---I couldn't tell you.

All right. Leanne Davidson is from her company, Pendragon.

Is that another supplier to - - -?---I don't know whether they were supplying through - I don't know what their contractual arrangements were.

Well, they're undoubtedly not - it's not a government body we're talking about; it's a private contractor body?---It's a contractor, yes.

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Sandra, is it, Beutel?---Beutel. Sandra, from my understanding, was an employee working direct report to Darrin Bond.

Jane Stewart?---Jane Stewart, I think, came from the support side, from Philip Hood's side.

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Those interviewees are the only ones you planned to interview. Is that right? Have I read out everyone on that list?---Yes, that was the snapshot from the end of the first or partway through the first day of what we were going to do during that five days.

All right. I'll give you this copy of that annexure just so that you can confirm that I've read out all of the people on your list?---There's a list there called "under consideration".

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Where's that, sorry?---So the ones you've read through were the interviewees and it says, "Under consideration: Sandra Waite, Scott McDonald, Phil Dumont, Deborah White, Lyn Hagwood, Andrew Atkins, Catherine Love.

You'll have to forgive me, your eyes are better than mine. Can I have that list and that sheet back?---And you'll notice in that table on the right-hand side there's, "Yes, yes, yes, yes," could indicate that those interviews probably happened. I'd be suggesting that's what that indicates, and that those group were probably in attendance for it.

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I'll have a look at that now and ask you some more questions. That's helpful. All right. Well, Gary Uhlmann is from where?---I can't tell you.

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Go through the list that you've just read out and tell me, please, in respect of each of them what organisation they're from if you can recall?---Okay. Gary Uhlmann, I don't know, but I think he may be connected with Arena; Melissa - I can't see the second name; I don't know. Jane Stewart I'm pretty sure was an employee; Megan Janke, SAP, as we discussed; Sandra Beutel, internal; Kathryn Morrissey, Accenture; Sandra Waite - my understanding she was internal; Scott McDonald, internal; Bill Willmott, internal; Deborah White, internal; Lynn Hackwood, contractor; Andrew Atkins, I don't know; Katherine Love - I'm pretty confident she was a contractor.

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Right. Would you turn back to the sheet that has - turn back further on, I think, into your bundle where you've got a column down the left-hand-side headed Interviewees and there are notes next to it? The first of them is Megan Janke - - -?---Yes.

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- - - and there's an entry there, "Workbrain integration to SAP." Do you see that?---Yes.

That's a note you made?---These are notes, I can't tell whether I made these or whether we collectively consolidated our thoughts and documented.

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It's a note made contemporaneously with the events of the snapshot review?---Yes.

One of the things that you've turned your mind to in the course of it was the integration of Workbrain with SAP? ---Yes.

At that stage at least, that was an issue because you knew that Workbrain was to be used at least in the rostering agencies for rostering?---Yes.

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And that it would have to be able to talk to, convey data to, and receive data from - - -?---SAP.

- - - SAP?---Correct.

All right, we'll come back to that later on. You obviously had no difficulty in speaking to these people about the issues that were relevant to the preparation of your snapshot review?---No difficulties, no.

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Okay. Thank you?---Do you mean that they had difficulties talking to us or I had difficulties talking to them?

Both, I mean you felt no compunction about approaching them and asking them to help - - -?---No.

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- - - and they didn't resist the notion of telling you things?---No. 1

In fact, they were very willing to tell you things about the matters you were talking to them about?---I think it was a fairly open environment and people prepared to commit and inform.

Very good. Now, would you keep that with you, please? We'll go back to your statement now, to paragraph 38, which our friend I think you've been taken to already. Paragraph 38, you say, "It's important to understand the concepts. This was not about Queensland Health payroll or about the shared services program" et cetera. I wanted to ask you about item number N, which I know Mr MacSporran did take you, "The LATTICE software was considered near obsolete and therefore high risk with LATTICE being used by Queensland Health and some other agencies." So that was a matter that emerged out of your snapshot review, would that be right?---I would have to go back and check the notes to see the merge out of that. 10 20

Sorry, this is your statement, is this something that is relevant to the phase one activity or is this part not necessarily relevant to phase one?---At the time, my statement's giving context to the environment of the shared services solution's program of activity. Your question narrowed it down to it came out of the five-day snapshot. It's highly likely it did but that's not why it's necessarily in that document, that was the environmental context aspect. 30

Okay. Just so that I'm clear, go back to page 5 of your statement. Halfway down the page you've got a heading The Arena Review Replanning Part 1 and some dates, 9 to 20 April. Do you see that?---Yes.

And then you turn across to page 9, you've got a heading Replanning Part 2, 23 April to 31 May?---Yes. 40

I'm sorry, but I had read it that what appeared between those two headings were referable to the heading, so that includes paragraph 38, do you see?---Yes, but 38 is in context.

It's not to be understood necessarily as things which emerge necessarily in the snapshot review, is that how we should understand it?---No, that's probably right.

All right. Well, I'll ask it more broadly then. At some stage in the course of your involvement with this project, and certainly before we get to the ITO, it was plain that there - there was a view at least that the LATTICE software was near obsolete and something had to be done about it urgently?---Yes. 50

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I don't want to go into the competing views, but that was undoubtedly something that you know was carefully investigated by CorpTech and by others?---Carefully investigated, I'm not sure I can contribute to that, but was certainly espoused primarily from Phil Hood's area, who was looking after the support of it. So he had the major concern and probably bubbled off as part of some of the risk workshops, his concern was that, you know, support time or the risk around it was increasing as time went on.

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Well, he identified the risk, yes? You've got to answer audibly?---He identified the risk?

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Yes?---He and others would have participated in identifying that risk at various forums, yes.

And you know that they looked at possible solutions to overcome that risk? Do you know they looked at solutions to overcome that risk?---Well, I think they'd already put in place solutions to overcome them because the risk was already with them. LATTICE was already near obsolete, Phil Hood's organisation support base had already dealt with that risk by having a capability onboard to manage that risk. It's not a new risk and they were then taking reaction to it, it was a forecast as time goes on that risk increases.

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Right?---So it was more in reference to what is the priority of then in the other 35 projects that still had to happen, or implementations, where does this LATTICE software dealing with that appear in that priority order?

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Can I try it this way: having identified the risk and that it was growing bigger as the time went by, people turned, to your knowledge, their mind to what's to be done about it and what was identified was to discuss advancing within the program the replacement of that system. Would that be correct?---Correct, the order of implementation.

Very good. Thank you. Now, we can move from that section to page 9 of your statement, please, where you deal with the replanning part 2. At some stage you note that there was an engagement to carry out what ultimately became Mr Burns report at the end of May?---Yes.

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Were you involved in whatever contractual arrangements were made about that engagement?---No.

Have you seen any contract or terms which define that arrangement?---No.

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Tell me, please, what is your knowledge of what it is Mr Burns was asked to do?---My understanding was out of the five day review a report presentation was put forward with recommendations, and it would be recommendations from that, that would be this charter for then the next stage.

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Sorry, I'll put it more simply. Did someone tell you Mr Burns has been engaged to do something, this?---I can't recall somebody doing that, but the flow of events was that once the presentation went up, it came down, progressed on with the next phase.

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Okay. Did Mr Burns tell you, "I've been engaged to do this," whatever it is?---I can't recall who told me.

But someone did?---I presume somebody did so it could continue on.

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What's the "this", that is, what is it that someone told you he'd been engaged to do?---The phase two replanning.

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So that's it?---Besides the five-week - what we'd loosely call the five-week review. 1

I want to be clear about this, Mr Goddard. Your recollection is that someone said to you, "Mr Burns has been engaged to do the phase two planning," or Mr Burns said, "I've been engaged to do the phase two planning"?---I can't recall which one of those happened.

It was one of those two?---I would think so, yes. 10

Now, you know, don't you, there was a meeting held on 30 April at the Treasury department attended by, amongst others, David Ford?---30 April? I'm not sure I know about that meeting.

What document are you looking at, please? Just tell me what you're looking at there?---As I have read through the number of papers that I have, I've just given myself a reference document, it's just a time chart, a management tool (indistinct) the five-day, the five-week, the 15 - - - 20

These are notes you prepared - - -?---Correct.

- - - for the purpose of giving your evidence?---Yes.

That's fine?---Each time we talk about something, I want to make sure I'm positioned in context of what was going on at that point in time. 30

I wish I had one of those, Mr Goddard. Can you go to page 226 of volume 27? You should have there an email which is from someone called Liz Russell, the executive officer at Treasury. Do you know that?---I don't know Elizabeth Russell, but - - -

All right. Never mind. And it's addressed, you'll see, to Robert Pedler?---Yes.

He's a SAP representative?---Correct. 40

And also to Mr Bloomfield, who's the IBM representative? ---Yes.

And some other people from those respective companies, and the subject matter is, "A meeting with Mr Ford, 30 April," and the email says that, "Mr Ford, deputy under-treasurer, Treasury Department has asked me to arrange a meeting with both to discuss CorpTech issues. David has suggested 30 April. Please advise." Now, you know Mr Burns went to that meeting, don't you?---I don't know that. 50

Mr Burns, Ms Perrott, Mr Waite, Mr Bloomfield and Mr Pedler met with Mr Ford - I'm sorry, I should have added also Mr Porter. You know that meeting took place, don't you?

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---No, I'm trying to think what that meeting was. On 1
30 April, I'm not clear on what the meeting was about.

Okay. Well, I'll put it to you again just so that we're
clear, that the meeting took place attended by these
representatives, Mr Bloomfield of IBM, Mr Pedler of SAP,
Mr Porter of Accenture and then from the government side,
Mr Ford, Ms Perrott, Mr Waite and then Mr Burns?---I
understand who was at that meeting. I don't know who - - - 10

And it was after that meeting that you know Mr Burns
embarked upon what you've called phase two. Yes?---Well,
around that time we embarked on phase two. I wasn't at
that meeting. I don't recollect necessarily that it
occurred but it most likely did to then launch off the
replanning phase two, that would be appropriate.

Okay. So that it would be appropriate for these supplier
representatives and the government representatives that
I've just identified to have some kind of discussion about 20
what's happened in phase two?---I can only speculate what
the context of the meeting was and that would be that this
rebuild or this activity was about to occur, possibly
indicating, "We'd appreciate your information and
participation in it."

All right. You know that - sorry, I withdraw that. Turn,
please, now to page 230. This is the email that you were
taken to yesterday, I think, of contact between - recording 30
a discussion or reporting, I suppose, is a better way of
putting it, the discussion between Mr Burns and an IBM
representative?---Mm.

And if Mr Burns was to carry out the phase two activity, he
would need to become much more educated than he was as a
result of his involvement in phase one, you'd accept that?
---Yes.

And that one of the ways of doing that is to go to a
supplier and ask that supplier to inform him of things? 40
---Yes, but it wasn't within the terms of what I understood
phase two was about.

That's what you said yesterday but as far as you've been
able to tell us today, all you could tell of what phase two
of the engagement of Mr Burns for phase two was that he
undertake it, not its content?---Okay. So my information
I'm working from is planning that I did in the early part
when we started phase two with Mr Burns to say, "What are
we doing?" 50

When? When was that?---Well, that would have been pretty
soon after he had charter to do it and we needed to work
out what we needed to do.

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Right. And you've got a plan, have you, of what you and he talked about would be done?---I don't have it with me but I think on the file set that I've offered to the inquiry, there's certainly a PERT chart which we would have whiteboarded it on the PERT chart, and it would have been the starting of the understanding of what activities were going on.

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I know you've referred to some of these things. I'm going to ask you about them?---Yes, and it's that interpretation that I then put into here.

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Okay. Mr Burns, at the time, is a person of whom you had a high regard?---Yes.

And he had, to your knowledge, been asked to undertake a phase two report of some kind?---Yes.

You were assisting him?---Yes.

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Okay. And you accept that he needed to catch up in terms of acquiring information about this project, compared to other people?---He certainly needed more information, yes.

Well, you described him, I think - well, all right, he had a superficial foundation of knowledge of the program?
---Yes.

And he undoubtedly needed to acquire in a very short time a more detailed knowledge?---I believe so, yes.

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And one means of achieving that would be to speak to someone who could give him assistance, to provide intelligence?---That's certainly one way of doing it, yes.

One way to do it is to, I suppose, speak to the people who have been involved in the project?---Yes.

Representatives of Accenture and representatives of Logica or others?---Yes, and that's what unfolded within workshops that Terry ran, drawing in people from right across the program, including Accenture and IBM

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In terms of that, you have absolutely no trouble with you and Mr Burns having sat down and agreed that you should in a workshop have discussions with Accenture representatives and Logica representatives to pick their brains about this project?---Yes. It was a process that involved gathering information.

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By meeting with representatives of Accenture and Logica, and picking their brains?---I just - I put it the other way around: meeting with representatives of the Shared Services program, irrespective of their basis, with working the areas to bring knowledge from those areas.

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So the people who are working in the field, you would go and speak to them to get information from them?---That's what occurred in those workshops that Terry ran. 1

And you obviously have no difficulty with that having occurred, sitting across the table from an Accenture representative and asking them for ideas?---It wasn't necessarily ideas, it was - at that time, it was fact finding, what are the concerns. It's not ideas, at that point wasn't generating ideas about where it would go and how to respond to it, it was a trawl of risks. 10

Fact-finding, which includes identification of difficulties?---Correct.

And possible means of overcoming them?---That would technically have been in the following phase, replanning phase three.

I see. So part of the process, as you see it, was to identify the problems but not to ask yourself how might they be overcome in phase two?---Correct. 20

Okay. And another thing that is, can I suggest to you, prudent for you or Mr Burns to have done is to ask someone who's not been responsible for the roll-out of the SSI system to date, someone other than Accenture and Logica what they see as the issues but is a fresh idea?---In part of the process in the third phase, the retaining phase three, I think that was the intent of having that independent group come in. 30

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So you would see a worthwhile step in the process of identifying the way forward to speak to people other than representatives of the companies who had been to that time rolling out HR and finance?---That was part of the strategy that was put in place as part of phase three.

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So you do accept that it's a reasonable thing to do, just you would say it should happen a little bit later?---I think that's a reasonable thing to do, yes, because you're looking at getting as much information as you can, yes.

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Okay. When that happens, in the course of that activity, you would be asking this person to come up with - if they can, new ideas of how to overcome to identified problems, to suggest new ideas of how they might overcome existing problems?---I think that's fair to say.

And you would say to them, "Look, be imaginative. Don't give me what I already know but give me some new ideas." That's a perfectly - perhaps not in those words but a perfectly sensible thing to ask?---I'm just out of context. That actually occurred in the RFI process.

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You say it in fact occurred but later on, in a process that you describe as an RFI?---First part of phase three RFI, yes.

Well, I want to put the proposition slightly broader. If someone is looking at identifying a solution to a problem, one - and we're talking about in the IT world - one sensible thing to do is to speak to the existing providers and identify what they think?---Yes.

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And another sensible idea is to speak to someone else and see if they can't come up with a different way, a new idea? ---That's not unreasonable.

It's very reasonable, isn't it?---Yes. The only thing I caught in there is the time frame it would take somebody to come up and speed them - get on top of the issues but as far as being a part, yes.

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Now, I know you haven't had a chance to look at it, but isn't that precisely what Mr Waite had asked Mr Bloomfield to provide in that document I showed you of March?---I didn't get time to read that.

Okay, you had not seen that before today. And isn't it a sensible course - forgetting what program you have designed, a sensible course for Mr Burns shortly after being tasked with the job of doing phase two, did you adjust that to go out and speak to someone who might be able to give him new ideas?---As long as it was within the context of the period of time of any probity issues that were around - I don't - personally I am not seeing

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trouble with it. I'm just not sure where we're going. We're talking about views, hypotheticals as opposed to what occurred at the time.

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Well, perhaps. If on 2 May, Mr Burn, or indeed you, on 2 May, if you had said, "I want to go and speak to someone other than Accenture and Logica to find out if there is a different way of doing things, okay, for the purposes of assisting me in my phase two report"?---Yes.

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You would have no ethical problem, no probity problem of doing that. Ringing up someone at some other company? ---PDS.

PDS, saying, "Look, I want to bounce some ideas off you"? ---The problem I have at the moment is we're putting it in the context of May, the context of May, the five-week report, was about finding out what the issues were in the program and documenting that and putting it down as a statement that these were the problems. It was the third phase, a month or so later, that phase was about now exploring what are all the options in different ways that we can go about putting - finding the best way forward, so that activity, if it were to occur of consulting broader is more appropriate to the time frame of the next phase.

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Good. Perhaps I'm at cross-purposes with you. You understood phase two to be confined to identifying the existing problems?---That's correct.

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You didn't see it as part of your task to find out if there was some new way of overcoming them until phase three? ---Correct.

But you accept that if you had thought that phase two included thinking about how it might be solved, if the phase two had included thinking about whether there was a solution to these problems, you would have no difficulty in achieving that, talking to the likes of PDS or Logica or Accenture or IBM or anyone?---I don't have any difficulty with that as long as the context of the time frame it was happening within the probity and - - -

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Talking to suppliers?---I'm okay on that.

I said PDS, I'm told I should have said EDS?---EDS.

You understood me?---Yes.

I'm giving away a great deal, I'm afraid. If you had understood that the task in May, the phase two task, was to explore possible solutions which were different to the existing established regime, one of the things that you would do or at least it is reasonable to do is sit across

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the table from a supplier and say to him, "Give me your ideas"?--In a hypothetical situation, yes, and if you wind yourself forward a month or two - - - 1

That's what you did?--Well, not broadly of what you said, no, because the RFI process really only contained itself to the existing (indistinct), there was an independent view sought from I think it was KPMG.

Okay, but in the hypothesis that I put to you; that is - - -?---Yes. 10

Please bear with me?--Sorry. Hypothesis?

Yes. I want to understand your - - -?---Well, the answer would be the same; yes, I'm just - - -

Okay, good. It would be okay then to say to that supplier, "Give me innovative and expansive thinking. There is no sacred cows," or words to that effect?---Yes. 20

To encourage them to come up with fresh ideas?---Yes, I think you just - I'm thinking probity wise going to one if you went to - this is a procurement issue so in a procurement circumstance, you can go out and test the market. I'm not an expert in procurement but what I have learnt over the years is there is an element you can go to the market and test them to see what their position is but primarily around testing them how you would go to the market and just address the market so they can give you that information. If you just go to one supplier, you are treading outside that bound, so my answers are qualified around being within procurement guidelines. 30

Let me reverse it. Certainly, you have no trouble with the process of someone like Mr Burns speaking to a supplier along the lines I have discussed with you?---And qualified by - within the procurement guidelines, yes.

Speaking to such a supplier and no problem with the supplier responding, your concern would be that Mr Burns should go to a number, that is to all of the suppliers or to more than one or whatever the probity requirements of the government regime might - - -?---Correct. 40

Okay. Thank you. Now, you know, don't you - or you know now at least - sorry, has Mr Burns ever described himself to you as being someone who was employed by IBM?---Look, the chances are he probably mentioned it in the early days, we probably discussed where each other has come from, didn't' stick in my mind as an issue. 50

Did he describe himself in that context as being a long-time IBMer or an old-time IBMer or something like that?---No. I believe Fonterra had the IBM - but I would

have picked up Fonterra but tagged it with IBM, pretty inconsequential to me so it's only recent readings that brought that back. I knew he had been in New Zealand and he mentioned somewhere he had done some work in England, British Rail or something.

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Did he mention that he had been educated in South Africa, in southern Africa at least?---I don't think we went to that, no.

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And that he had been employed by IBM as an apprentice to start with?---There was no positioning by Terry to say he was an IBM person.

Okay, thanks for that. Thank you. Now, can we go back to your statement, please. I am focusing now on what you described as the replanning part 2 and you've got extremes 1, extremes 2 and extreme 2.3. Do you see that? ---Yes.

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I'm sorry, I've got stream 2 and it, itself, broken into streams 2.1, 2.2 and 2.3?---That's correct, yes. 1

This is your program of what you're going to do?---Yes, that's right.

You say Mr Burns ran a series of risk workshops?---Yes, that's stream 1.

That's stream 1. And, in part, that was people you described as being "grass roots", would that be right? ---Yes. 10

Grass roots where?---For the program.

Right. I'm sorry, you'll have to forgive me. At CorpTech there were people working within CorpTech whose origin can either be public servant, an employee of Accenture, an employee of IBM, an employee of Logica or indeed probably others, and some who are contractors to both, either to CorpTech or to one of those suppliers?---Yes. 20

Were there grass roots from each of those categories who were included in these workshops?---More than likely.

More than likely. So that's Mr Burns' task, and then if you turn across to your task, I think it's right to say you were responsible for stream 2?---Yes.

I want to ask you about the third of those streams, that's stream 2.3. You identified a need to develop a limited set of forward scenarios and a GAMP chart?---Yes. 30

Sorry, and GAMP chart them to a reasonable level to determine relevant timings and costings. Do you see that? ---Yes.

So that as part of your phase two activity, your role was to develop a limited set of forward scenarios to forecast what was going or could happen in the future?---I guess it was to basically say, "If the program keeps doing what it's doing at the moment, what's our forecast for when it will complete time wise," and then extrapolating from that, you can come back to dollars, essentially time. 40

So identification of task which, itself, involves a consideration of the sequence in which tasks are to occur? ---Yes.

So whether you do or don't accelerate Queensland Health? ---Yes, that's right. 50

Perhaps two scenarios there, one where you do and one where you don't?---Yes.

And you can recall that those, at least, those alternatives were things within the forward plan scenarios that you identified?---I can't recall the specific scenario, but if the primary one, as I say, "If we keep doing it at the moment the way we're doing it with the order of progression that was currently planned at that point in time, what's that time frame?" It'd give a magnitude of difference to what the understanding was when the money would run out. 1

Okay, but that's one, you've described it as a "limited set", so there must have been more than one scenario? ---Yes. The primary point at that time was to get one, there was then other things - well, there was other traits going, like, DDE, so the dual development environment. There was a philosophy up there, if you actually said, "Let's use dual development environment," that could potentially have been accelerated. 10

So is that scenario two? Is that a second scenario?---I don't know whether that - but something like that. 20

Something like that?---So as to give a bit of a dimension, again, you'd reuse these alternates, you know, what's the difference with what we're doing at the day, but the primary one was if we keep doing what we're doing at the moment, what's that point?

And, forgive me, do you recall if one of the other scenarios or variables was the timing of the release of Queensland Health, the roll-out to Queensland Health?---The level of detail done in the other scenarios, at this point, was probably pretty thin. That would have been one that was done in the subsequent phase activity. 30

Bear with me, please. Tell me what scenarios other than the primary one and the DDE one that you've mentioned were the subject of your work in stream 2.3?---I couldn't tell you what they were but it was most likely around the order for which departmental agencies were rolled out. 40

So the sequence of roll-out?---That would be most likely what they were looking at, yes.

Okay. And then the GAMP chart, I'm sure others know what that is?---In my mind, they were activities based across it.

"And to a reasonable level to determine relative timing and costings," so presumably for each of these scenarios there was costings allocated to things?---You can extrapolate broad costing from it. 50

"And then to compare those and to identify a preferred option forward." That's part of your stream 2.3?---Yes.

So we're clear, in phase two, you saw as part of your role to identify from those options the preferred option forward?---I see where you're going, preferred option. 1

I'm using your words, I'm sorry, Mr Goddard?---Yes, that's fair. Possibly a bad choice, but the idea was to get some measure to say, "If we keep doing what we're doing," but these are possibly some alternates of what might be done in that path forward because there was lots of thinking at the time about, "Would they do this first or those?" You know, so there was some discussion about what they were doing so it was trying to represent that. 10

Okay?---But, yes, it was looking for options to say, "If we keep going forward and to lead different scenarios, that's the magnitude of difference it's likely to be." It was less about trying to necessarily find the best one forward at that point in time, rather than say, "What is a reasonable comparison way against what we've got at the moment," are the understandings. 20

Now, you say, "At the same time, this would quantify the time and cost variance from the current plan," so it's obviously comparing one or more of these options with the current plan?---That's correct. That's that magnitude of difference.

Now, you tell us that, "To undertake that a dedicated team of the most respected planning brains trust," these are your words?---Yes. 30

They're in quotes, why are they in quotes?---I think I just used words "brains trust".

You were flattering them, okay. "The most respected brains trust was assembled, and that assembly comprised Leanne Davidson of Pendragon?---Yes.

And you've mentioned that company already. Would you mind just telling me, it's a consultant?---It's a company. They specialise in SAP implementations. 40

Right. And Janine Griffiths: where's she from?---My understanding is Janine's from Accenture.

And another person from Accenture?---Yes, I can't remember his name.

Was it Simon Porter?---No. 50

All right. Was it Marcus Salouk?---Canadian accent.

I can't help you there. It wasn't Marcus Salouk?---No.

All right. And you assembled that team of Pendragon and two Accenture representatives for the purposes of your stream 2.3 work?--There were more than that but those are the ones I can remember that were in that group.

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Who was the IBM representative on that team?---I couldn't tell you, but again, it was who has the knowledge in those positions brought into that forum. Knowing now that we've clarified now that IBM didn't have the finance component, the primary drivers around doing scheduling would be financing the HR payroll component. OSF and things like that were probably less the driver, so incorporated but the primary drivers were around the finance and HR payroll.

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Now, you had no probity issue, as far as you could see it, in you sitting down in a team, a dedicated team, with people you describe as "the most respected planning brains trust" in order to develop a limited set of forward scenarios with costings and time lines?---No, I had no problems with that from the point of view we were trying to utilise the information and knowledge that was there and available at the time to assemble our best view forward.

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And did you say to those people, "I want you to tell me what's the best information available that you can give me to identify a limited set of forward scenarios. Please, tell me what those are"? Did you say that to them?---Yes.

And you say to them, "Tell me what the costs of that are"? ---I'm not sure whether costing came out of that, the group was more about driving up the schedule. It think it would have been a subsequent process that might have picked up people as far as the cost driving out.

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Okay, well, just dealing with Ms Davidson and Ms Griffiths and whoever else was the Accenture person, the substance of what you're asking to do was to give you information about the forward scenarios which could be pursued, and that included information about the impact of changing the sequence of roll-out?---Yes.

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And the merits or not of altering the sequence in a particular way?---That's right. The purpose of it was to find a reasonable comparison, so if we juggled them around was there a substantial difference in doing it. It was less about driving out which is the optimum one we're going to take, although that would have been useful as we go forward.

I understand. The object wasn't to try to find the very best scenario forward necessarily, but it was certainly to identify a number of options forward?---It was trying to make sure, as we forecasted forward, we had a reasonable amount of certainty that the time frame that was going to come out was a reasonable point to say, "At the moment we think here, in the future we think there, that's the gap."

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And identify the difference in the gap if different scenarios were pursued?---A limited set, yes. 1

Okay. And in respect of that limited set, you're asking them to give you information, advice about whether it could be done, the problems that might arise if it were done that way?---I don't think we were asking for that advice but that might have come out of it, yeah, but these guys would utilise their knowledge to basically apply that to bring up the schedule. 10

To basically "apply" it, did you say, to bring up the schedule?---They were the brains trust, they were the competent group to be able to work that through, that schedule and develop the schedule. If they came up with issues or technical challenges, they would take that on board as they developed a schedule.

Very good. All right. Thank you. And did you have, in the course of the performance of your scenario - sorry, stream 2.1 or stream 2.2, discussions with anyone?---2.1 would have been done in a large forum of people, so basically a workshop again of people that would have had knowledge or views in regards to that topic. 20

Can you just pause there then?---Sorry?

Can you just pause there? I'll ask you about 2.2 in a minute?---Sorry, that was 2.1 I was talking to. 30

Yes. That's why I want to pause. I want to ask you more about 2.1. "There was an issue," you say, "whether we ought to undertake dual development environment," that's the DDE you mentioned before?---Yes.

But one of the potential accelerators, so it is a means of accelerating the roll-out of the SSI. Yes?---Yes.

And you rang - sorry, you ran workshops of specialist technical specialists to debate this issue?---Yes. 40

And the people you can recall, I'll tell you who you can recall, who was the Accenture representatives there?---Most likely Megan Janke would have been there. I couldn't tell you who else was there in that group.

Megan Janke, you've said - - -?---Sorry, she's SAP.

- - - was SAP. Was Mr Porter there?---No. Look, I can't remember having any workshops or discussions with Mr Porter. 50

Okay. Well, can you remember who else was present?---Not directly, it's just a - I ran a lot of workshops and remembering who was specifically at each, but, again, it

would have gone down to those people that had knowledge and ability within the program, pulled them in to drive the - but it's a collective view. Everyone had different views, it was trying to get a collective view. 1

So to be clear, this is a debate about something which would be an accelerator of the program, a departure from the existing regime?---Well, yes, but that's probably a moot point. You're probably trying to drill in that area. At that time we're trying to say, "If we keep doing what we're doing" - and one debate at that point in time, hot in the debate of the program, was: should we do DDE or not? So it was trying to bring a conclusion to say, "Well, when we map forward, should be assuming it's DDE or not DDE?" 10

Okay, "Should we pursue this particular accelerator?" and that was debated?---That was a hot topic at the moment, at that time, for what the program is doing.

All right. I'll put it differently. Was it debated whether you should or should not pursue the implementation of this accelerator?---Yes. 20

And it was debated between you and representatives of at least SAP?---Debated by me. I was facilitating the discussions that happened (indistinct) in that case determined what would be the best direction forward.

And they were giving you information?---They were giving the forum information, yes. 30

The purpose of them giving the forum information is to assist you in the compilation of your phase two activity report?---Correct.

So they were giving you information; they were giving it to each other as well?---Yes.

But the purpose of this was to convey things to you?---Yes, to - - - 40

And you would be certainly encouraging them to be as full and frank as you could possibly encourage them to do? ---Yes.

That's right, isn't it? Tell me everything you can about this issue?---Tell the forum and then the forum believed under a conclusion that's what they thought.

Thank you. Now, I said I'd come back to it, stream 2.2, you say, "There was a need to refresh the program schedule to reflect work throughout" - sorry, "through to the end of 2007. The purpose of this was to confirm that the SS project teams, 450 people, should focus on doing why we worked out what we were going to do with the program. We didn't want momentum," et cetera?---Yes. 50

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"This planning ensured the period through to the end of the calendar year was optimally focused." Do you see that?
---Yes. 1

Now, what form did stream 2.2 take? Was this something you do sitting in your room or did you actually consult with people about it?---No. Again, it would have been in a workshop environment because it would have required the similar - the different brains trust to work that through. 10

Okay. So it may not be the same brains trust in each case but the proposition's the same?---Correct.

You called people together as you thought fit?---Yes.

And extracted from them whatever information you could?
---Not necessarily I saw fit; it would be basically - we'd go to Darrin and people like that, and say, "We're having this workshop. Who do you nominate to come along?" 20

Very good. Thank you. Did you - - -

COMMISSIONER: Mr Goddard, can you recall what role IBM was playing in the SSS solution program?---As I said earlier, until a couple - five, six days ago I had basically thought that they were they're primarily from the finance component.

Well, was the - no, that's not right. Logica was doing the - - -?---Yeah. 30

Accenture was doing the HR on the program?---That's right.

SAP was doing something else, I think. Did IBM have much of a role, do you know?---I haven't got really any measure of what was - how they - the extent that their contribution was to others. As I'd say, I really just worked across the people there rather than where they come from or where they were sourced from. I just worked across the group and drew resources as I needed for particular topics of the day. 40

This process that you've been discussing with Dr Doyle which you say it's reasonable, no doubt that it was, to obtain information from those who could give it: were you doing that with respect to the people who were involved in parts of the SSS program, there's those who had knowledge that they could impart and ideas that they could give?
---Yes. Do you mean was I using the resources of the Shared Services program? 50

Yes?---Yes.

And you don't know what role IBM had in that program?---As I said, my understanding was until - - -

We'll have this wrong now?---Yes.

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So you can't tell us what IBM was involved in?---From my understanding in the last five days, they were there for the Workbrain rostering component. I think I've read also recently that in there around the PMO but I certainly didn't note that at the time until a handful of days ago.

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All right. Thank you?---In regards to Workbrain, I approximate - it was my recollection, it probably wasn't clear enough back then, about their involvement with Workbrain.

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Thank you.

MR DOYLE: Very good. I want to take you next to some documents. Have you still got volume 27?---Yes.

Could you turn, please, to page 233?: You should have there - I want to direct your attention really to the bottom email?---Okay.

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You know who (indistinct) is or was?---Yes, she was - yes, I do.

And?---She was basically an executive assistant supporting Terry's work for a period of time.

Okay. At CorpTech?---Yes.

She's a CorpTech employee not an Arena or a Cavendish management, or - - -?---Yeah. I don't know whether she was an employee or a part-time temp, or - but, yes, she was basically from CorpTech.

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And you'll see that this is an email dated 2 May where she's sending an email to Mr Bloomfield thanking him "for meeting us today" and then behind that is a copy of the - I'm sorry, and then at the top of the page you'll see that Mr Bloomfield responds saying, "Thanks," and attaching that - a copy of the document that had been given to Mr Waite - - -?---Yes.

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- - - in March. Do you recall seeing that exchange back in - - -?---I don't recall that, no.

Okay. And then I've probably skipped over a few. Can you turn, please, to page 262?---262?

262?---Yep.

No, my mistake. Excuse me, please; page 263. At the top of the page you'll see an email from Mr Burns to Mr Bloomfield.

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COMMISSIONER: What page?

MR DOYLE: 263. You'll see Mr Burns says to Mr Bloomfield, "I understand that you do not have any significant new strategies to offer in the main solution area of design build implementation." Do you see that?
---Yes.

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Have you seen that email before today?---No.

Can I ask you then, to go to a different topic and that's the - and we're going to have clarify some terminology here, but a process that occurred in July or August, and you've used a number of acronyms, which I can't now remember, but there was an RFI, which was a request for information, is it?---Yes.

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An RFP, which was a request for proposal?---Yes.

An RFO?---Request for offer.

Offer. Is that different from an RFT?---Or an ITO.

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Are those three the same thing with different descriptions?
---The last one, I think they're all around the same. I'd call that the actual tender.

Okay. Well, so that we're clear. RFI and RFP are things which are different from the third category I want to ask you about?---Yes.

And the third category, you might call it a request for offer, a request for tender or an invitation to tender?
---Yes.

30

And your people use those descriptions at times interchangeably?---Yes.

Okay. Can I ask you though about then the RFP process, that is a request for proposal. You know now that there was such a thing?---Yes.

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And were you involved in it in 2007?---Yes.

Did you draft a communication from CorpTech to various suppliers, inviting them to attend a supplier briefing?
---For that, that is - somebody would need to extend them that. I don't know whether I did but somebody would need to because there was a briefing, yes.

All right. So there was a supplier briefing?---I've got a date down of roughly early July, there was a supplier briefing. So that was with regards to the RFI process.

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Okay?---So I don't know there was a briefing for the RFO - sorry, the RFP process.

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We're going to get into trouble about that. All right. 1
Just excuse me.

COMMISSIONER: There seems to be some confusion between 10
the RFI and the RFP. I'm not sure the evidence actually
establishes, does it, that there were three processes. I
thought there were two, which would call for convenience
the RFP and the ITO. I'm not sure that there was an RFI
that preceded the RFP.

MR DOYLE: That's probably so. Mr Goddard certainly used
that description. I just wanted to have it clear?---The
evaluation strategy on these documents in here actually
clearly differentiate the RFI process from an RFP process
from a tender process.

COMMISSIONER: I'm sure that you can categorise things in
that way but I'm not sure what actually happened here was
a three-phase thing rather than two-phase thing. That's
what I'm saying?---My personal view would say it was a 20
three-phase thing but I think the blurring between where
the RFI and the RFP process changed, there was no specific
date.

MR DOYLE: I'm going to have to show you one more volume
and come back to that?---Sure. Do I keep - - -

You can keep that one. Volume 6.

COMMISSIONER: Mr Doyle, I don't wish to hurry you, of 30
course, but how long - - -

MR DOYLE: There's no chance of my finishing by 1.00 but
I'll go up to 1.00 at least in any event.

COMMISSIONER: Of course, yes.

MR DOYLE: There's an email sent on 25 July?---Mm'hm.

Do you recall that? Your time sheet doesn't help you with 40
that? Volume 6, open at page 53, please.

COMMISSIONER: What page?

MR DOYLE: 53. At the top of the page you've got an email
from Maree Blakeney to Joanne Bugden saying, "Below is what
Terry sent to all four suppliers." Do you see that?
---Mm'hm.

And then below is a sample of the email which, in this 50
case, Mr Burns sent to - it looks like to be the Logica
people that I've shown you. Now, is this the RFP?---Yes.
That would definitely be under the RFP.

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Well, no, not that it's under the RFP. This is the request to which you would refer as the request for proposal, that you, Mr Goddard, would refer to as the request for proposal?---Yes. 1

Good. Now, read it because I'll read it myself; I'll ask you some things about it later on. When you've done that, I'd like you to go back to volume 32. You can put volume 6 aside or away if you want to?---Okay. 10

Would you go to page 83, please? You should have there what is a printout of an acceptance of an invitation; that's how we should understand this.

COMMISSIONER: What volume are you in?

MR DOYLE: Sorry, 32, page 83?---Is that an acceptance or a request?

Okay. It's an invitation. That's the invitation?---Yes. 20

If you turn, please, to page 84, that's your acceptance, isn't it?---That would look like that, yes.

And so on 25 July when, would it be right to say, you appreciated there was in place an RFP, you accepted an invitation to attend a meeting with - attended by Mr Burns and two IBM representatives?---That would look like it here, yes. 30

All right. Which it would be fair to say you would only do if you thought it was perfectly acceptable to do that? ---Only one qualification is if somebody had proxy over my email and was doing that for me but I can't determine - - -

COMMISSIONER: I missed that answer?---Only unless somebody had proxy over my email and assuming I wasn't available, had answered that on my behalf, so I don't recall the meeting at the moment and it would be an unusual time frame for that to occur. 40

MR DOYLE: I see. Okay. Go now, please, to page 89. This is another invitation, is it, to a meeting?---Yes.

Directed to, amongst others, you?---Yes. 50

The subject matter is the IBM dry run?---That's right. 1

And if we turn to page 90, you accepted that?

COMMISSIONER: Who was (indistinct)? Do you know?

MR DOYLE: She's an IBM person.

COMMISSIONER: And Sarah Simpson? 10

MR DOYLE: I should know these things; IBM, as is Mr Surprenant.

COMMISSIONER: Yes, I knew that, and Cameron. Pullen too?

MR DOYLE: Yes, I think all of them except Mr Goddard and Mr Burns.

COMMISSIONER: Yes. 20

MR DOYLE: But, Mr Goddard, you accepted that, unless someone else has - - -?---That's right.

- - - taken your email system, but you don't remember attending that meeting?---I don't recall attending that meeting.

Can you turn, please, to page 92? This is an email from Mr Bloomfield to Jan Dalton at CorpTech copied to Ms Perrott, Mr Burns, you, and another IBM person. The subject matter was, "Extended audience for IBM's Monday meeting." Can you see that?---Yes. 30

Do you remember reading that email back in 2007?---No, the first I recall seeing that is an hour or so ago when - - -

COMMISSIONER: Mr Doyle, what's the word that ends the first paragraph? It's blanked out in my copy.

MR DOYLE: And mine. I'll see if we can correct that after lunch or perhaps tomorrow. 40

All right. Now, I thought I understood you to say in the course of your evidence that, "It was inappropriate for IBM to seek to restrict the audience." Do you recall saying that?---IBM to seek to restrict the audience?

Yes. You were asked about this email which says, "IBM is very keen to ensure that we have a good engagement and clear presentation with Gerard" - that's Mr Butler (sic)? ---Yes. 50

Sorry, Mr Bradley - "and the rest of the steering committee." Who is "the rest of the steering committee"? ---I'm not sure.

Okay. "In our" - something - "presentation, probably, tomorrow" and you were asked about that and you offered the view that it was inappropriate to seek to restrict the audience. Do you recall that?--Yes, I'm stating that because of a proximity of the RFP process evaluation that was about to occur soon thereafter.

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But you read, I take it, the next paragraph, which says, "We're very happy to present to a wider audience, as Barbara has asked, we request this occur in a separate session." So your suggestion of inappropriateness is to restrict an audience to the under-treasurer and the rest of the steering committee because of the proximity to the RFP. Is that as we should understand it?--Those are in my mind when I say those things about that.

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Good. One final topic, if that's convenient? Can you go to volume 28, please? I'm sorry, it's volume 26?--Can I just expand on something?

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Would you mind if we do this?--Okay.

You may get the chance in the course of it; if not, I'll ask you at the end of it. Would you go to volume 26, please, to page 1169? Now, I don't think you've seen this before but I'll ask you some things about it. This, we are told, is a reconstructed note of a meeting or two meetings, it turns out, one on 2 August 2007, between the people who are shown on 1196. Do you see them?--Yes.

30

Now, just helping me, please, there's three representatives of Accenture present but then there are other people. Does that other group represent the under-treasurer and the other members of the steering committee?--I couldn't tell you.

Okay. Well, you can't tell us whether they are or are not in the steering committee?--I'd have to go to a reference document that told me, at that time, who was on the steering committee and then be able to tell you that. I don't have a clear understanding of who was on the steering committee, I didn't attend the steering committee so I don't have a visual recognition of who was on that steering committee.

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All right. I'll come back to this document - - -

COMMISSIONER: Mr Doyle, can we pause here?

MR DOYLE: Certainly.

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COMMISSIONER: How much longer will you be?

MR DOYLE: Probably two hours, I'm sorry to say.

COMMISSIONER: Mr Goddard, can you come back tomorrow morning?---Yes. 1

There's another witness who no doubt you've heard is leaving the country tomorrow morning - in fact I think she's leaving this afternoon - so do you mind coming back tomorrow at 10.00?---Fine.

WITNESS WITHDREW 10

COMMISSIONER: Mr Doyle, it's not convenient, but can you cope with that?

MR DOYLE: Of course. No, it's perfectly convenient.

COMMISSIONER: Very well. We'll adjourn, now until quarter past 2 and we'll take evidence of Mr Swinson.

THE COMMISSION AJDOURNED AT 1.02 PM UNTIL 2.15 PM 20

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THE COMMISSION RESUMED AT 2.14 PM

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COMMISSIONER: Mr Horton?

MR HORTON: Mr Commissioner, I call Mr John Swinson, who's sitting in the box already.

MR DEVLIN: Good afternoon, commissioner. I seek leave to appear Mr Swinson.

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COMMISSIONER: Yes. Mr Devlin, I take it you're asking leave to appear just while Mr Swinson not generally?

MR DEVLIN: Yes.

COMMISSIONER: Yes, I give you that leave.

MR DEVLIN: Thank you.

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COMMISSIONER: Yes, Mr Horton.

SWINSON, JOHN affirmed:

MR HORTON: You are John Swinson. Is that correct?
---Correct.

And you're a partner of King and Wood Mallesons?---Correct.

30

And you've been a partner of that firm, however called, for quite some time?---Correct.

You've prepared a statement and an addendum statement for the purpose of today's proceeding. Do you have a copy of them both - - -?---Yes, I do.

- - - with you? Is the original statement dated 13 March 2013, amended and signed that day?---Yes, correct.

40

And the addendum statement is dated 19 March 2013?
---Correct.

I tender a copy of each, Mr Commissioner. There's not an original of the larger of the two, which we'll prepare in due course.

COMMISSIONER: Very well. I'll make the two statements exhibit 28A and B, B will be, of course, the addendum statement.

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ADMITTED AND MARKED: "EXHIBIT 28A AND B"

MR HORTON: Mr Swinson, are the contents of those statements true and correct to the best of your knowledge and belief?---Yes, although I was looking at it before and

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in paragraph 50 of the first statement there's a date there which is 24 September 2007. 1

Yes?---I don't have my file with me, but that could be 24 October 2007, so I'm not sure if that's September or October. I'd have to check that.

Thank you?---But it looked a little strange when I was reading it again this morning. 10

Now, as at mid-2007, Mallesons is one of the law firms on the treasury legal firm panel?---Yes.

And you were engaged in about mid-2007 by treasury legal services?---Yes.

And the engagement initially, and I'll take you to it, it's in volume 9, page 5, behind tab 8?---Yes. This is an email. 20

Yes. Is this the way you received the terms of your engagement?---The legal terms of the engagement was set out in a panel arrangement, which was called the "Legal Services Panel Arrangement" and they had a number after it which was negotiated where treasury legal services unit well prior to this. And so this was an engagement under the panel arrangement.

Yes. This particular engagement was, if you look in the first paragraph, "Advise on a proposal to engage a prime contractor - - -?---Yes. 30

- - - to manage external service providers"?---Yes.

And by that stage, to your knowledge, was there such a proposal?---When I received this email I wasn't aware of whether there was a proposal or not, but at the briefing that I had afterwards I was made aware that there was a proposal. 40

In the third last paragraph you were told the matter has a degree of urgency?---Yes.

And you were asked for initial advice by close of business tomorrow, I think?---Yes, correct.

Now, the next day you gave some oral advice?---Yes, that's correct.

If you turn over, Mr Swinson, two substantive pages, it won't be hard to see, the page number, but it would be page 7?---Yes, this is a document entitled "Memo to file". 50

Yes, it is, dated 27 July 2007. Is this a record of the advice which you gave arising from the appointment we've

just looked at?---This is a file note which I believe was taken by Keith Millman, who was in the treasury legal services unit. 1

And does this constitute the advice which you gave on an initial basis?---Yes, this looks like a good summary of the advice.

And the advice was, in summary, this: nothing precluded in the existing contracts, the state moving to a prime contractor model?---Yes, and in the last paragraph on the last page it records what I said, it was preliminary tentative advice because I had not seen the full versions of all the contracts involved and only had an initial briefing. So that was the initial preliminary advice. 10

And the difficulty was, or the dilemma, that there were existing contracts which the state had with various service providers, various vendors, and the question is whether engaging a prime contractor would impermissibly, unlawfully disrupt the arrangements which were then in place? 20
---Correct.

Now, do you recall who else was present at the meeting of which this is a file note?---I believe at this meeting it was Keith Millman. I cannot remember if anyone else was at this meeting. I had a prior meeting with Keith Goddard, Maree Blakeney and maybe other people to get the factual background before I gave the advice to Mr Millman. 30

Can I ask you on that point, could the witness please be shown volume 46 of the bundle, page 1?

MR DOYLE: I rise to mention we don't have volume 36, although I think we've been asking for volume 36.

MR HORTON: I'm sorry, I can provide you with a very short document. 40

COMMISSIONER: I don't have one either, Mr Horton.

MR HORTON: I'm sorry, commissioner?---I don't have it either.

Can this be shown to the witness, please?---Yes.

Is this email referable to the meeting you've just discussed?---No, this was an email that - so what happened on Thursday, 26th, in the morning, Keith Goddard called me and said CorpTech needed legal advice, and I said the proper process was to engage me through the treasury legal panel and that he should contact Keith Millman, and it was up to Keith Millman to decide which lawyer to brief to. And so Keith Millman called me and I was responding to 50

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Keith Goddard saying, "Keith Millman's okay in engaging us, just to let Keith know that he would be having a meeting with me later on." 1

Thank you?---So that's what that was about. That was the logistics.

Thank you. I don't think I need to tender that, Mr Commissioner, I'm relying on the evidence. 10

COMMISSIONER: No. Will you make much reference to what's in volume 36 of the exhibit, or what should be an exhibit?

MR HORTON: No, that's the only reference, Mr Commissioner.

COMMISSIONER: All right.

MR HORTON: Can I take you back very briefly, Mr Swinson, to the file note of Mr Millman, which I think you have open there? In volume 9, if you just turn to page 2 of that file note, now, there's reference there where the second dot point appears, "CTech" - I presume that's CorpTech - "would have some state purchasing policy issues - - -"? ---Yes. 20

"- - - but they would not prevent them from doing what they wanted." At this time what's your understanding of what the state purchasing policy issues were which governed this potential arrangement?---The question that - the issue that's referring to is there were existing contracts; the question arises as whether those existing contracts could be amended to turn it into a prime contractor arrangement, and my view was that would be inappropriate under state purchasing policy, a new procurement process would have to go through. So you can't have a contract, say, to buy one knife and then amend that contract to buy a whole building, for example, because that's a way of getting around state purchasing policies to say, "We've already got a contract," you still have to go back to tender if it's a significant change as compared to what was tendered for in the first place. 30 40

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Did you detect on behalf of anyone you met at this time a desire to amend the existing contracts to do that as opposed to enter into a new arrangement?---That was one of the options being discussed. At this early stage, people were looking for what options do we have to move to a prime contractor model.

1

Were there issues which CorpTech faced under the state purchasing policy relating to probity of any future process?---That wasn't discussed at that time.

10

Are you familiar with whether the state purchasing policy then provided for any probity arrangements to be made in large purchases such as the prime contractor model might involve?---Yes.

And what were they, do you remember?---At that time there were what I call general probity provisions, things such as everyone has to have a fair and equal chance, no-one should be treated in a preferential way, the general probity requirements.

20

Just taking you chronologically through the sequence, if you turn a few pages to document 8.5 in that bundle which again, the page numbers are obscured by dark shadings?---Yes.

Now, what appears to occur is on 30 July, you're invited to vendor presentations?---Yes.

30

And then you in effect seek clarification from Mr Millman in the Legal Service - whether you should attend?---Yes.

He responds in the manner indicated at the top of page 9?---Yes.

Now, attached to your - sorry, you can put that volume to the side for the moment. Attached to your statement is exhibit 1, notes for a meeting dated 9 August?---Yes.

40

Is this the next step in your recollection of the series of events involving CorpTech prime contractor proposal?---So first, I did not attend the vendor meetings that you referred to, so I went back to Mr Millman and I said, "Should I go?" and he said he couldn't see a need and so I did not attend those meetings. The next thing that happened was on 7 and 8 August, I received an email from Maree Blakeney, a number of emails from Maree Blakeney which included the RFI responses of various contractors.

50

Yes?---And then I attended the meeting on 9 August.

Are these notes that you prepared in exhibit 1 to your statement?---Yes, and I cannot recall if these were notes that I prepared before the meeting as an agenda to remind me or after the meeting.

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Yes. In either event, do they reflect what you were likely to have said at the meeting?---Yes. 1

So you advised point 5, "a formal tender process we needed"?---Yes.

You thought it could be a closed, invitation-only tender? ---Yes.

Why was that, just out of interest?---If there were only a limited - if the business believed there were only a limited number of people who could possibly meet the requirements, it was permissible under state purchasing policy to do a closed tender arrangement. There was no legal requirement to do a public tender. 10

And point 7, you talk about internal governance model? ---Yes.

What governance model are you referring to? The tender evaluation governance model or looking further forward? ---Looking further forward. 20

And this is the governance model being for any project which might involve moving to a prime contractor?---Yes.

Then you mention in point 10, the GOTC can be used as a basis for doing so?---Yes.

Thank you. Now, if you turn the page, please, to your exhibit 2. This is an exhibit you have told us in the addendum statement which you attended be telephone from Melbourne?---Yes. 30

These notes have been typed by someone else's - - -?---Yes, it was typed by one of the lawyers or my staff who was in the - the meeting took place in a Mallesons conference room. I wasn't there in person but the lawyer who typed these notes was there in person. 40

Yes. You agree they reflect what generally took place in the meeting?---Yes.

Now, do you recall if Mr Burns was present at that meeting?---Today I can't recall who was at the meeting. I have to check my file on that.

Let me take you to a document and see if it refreshes your memory?---Mm'hm. 50

If you go back to the volume that we've been working from, it's 8.7, so it's a couple more pages on from where we were, pages 13 and 14?---Is this also titled Memo to File.

Memo to File, dated 14 August 2007?---Yes, yes. This looks like a memo from David Stone.

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Yes. Is this likely to be of the same meeting which your exhibit 2 refers to?---It says here Swinson on phone-link, so that suggests to me it was the same meeting.

1

Certainly. Now, if you just look down to the second paragraph of what - third paragraph really of the document, Burns wants an aspirational response?---Mm'hm.

And then have in engaged in an "RFO discussion" with two vendors?---Yes.

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Do you recall Mr Burns saying that?---I don't recall him saying that, not today.

Bearing in mind this time, would that have raised concerns in your mind for someone having had RFO discussions as at 14 August?---Well, as at 14 August, my understanding was CorpTech had invited a number of contractors to submit responses to a request for offer. Those were received on 7 and 8 - well, I received them on 7 and 8 August, and Mr Burns and - I think Mr Goddard's view was well, can we just start negotiating a contract and start doing negotiations with both of them as a simultaneous negotiation process and to see which one we end up with the best contract with and enter into that contract. They thought that that would be quicker.

20

Other than by a tender process?---Yes. So the view was to treat the RFO as tender process. There were two responses to the RFO that CorpTech regarded as being superior, IBM and Accenture, and so start negotiations with them simultaneously and see who ends up with - where you end up with the best contract and sign the best contract. They thought that would be the fastest way to get a to a resolution.

30

Who was advancing that view at this meeting?---I can't say whether it was at that meeting or in discussions around that time but I believe it was both Mr Burns and Mr Goddard.

40

Yes. Was anyone who was employed by CorpTech itself advancing that view as distinct from contractors?---I cannot remember.

Did you understand at that time Mr Burns to be a contractor into CorpTech?---I learnt somewhere in that month that he was contractor to CorpTech. I didn't know.

How about Mr Goddard?---I knew he was a contractor.

50

Yes. Did you think at any time it was strange perhaps that people from outside CorpTech, ie. contracted to CorpTech not employed by the state, were advancing a particular position of that kind?---Absolutely not. It was quite normal.

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Yes. Let me ask you this: at this stage, do you remember Maree Blakeney ever raising with you any concerns, or in meetings in which you were involved, concerns that Mr Burns was or had spoken to potential vendors who might wish to be involved in the prime contractor model proposal? ---No, I don't remember Maree raising it at this stage. I remember her raising it at some stage but not - I don't remember whether it was at this stage or another stage.

1

Yes. You can't remember when?---When she raised that issue? She sent me an email at some stage raising this as an issue. I can check to find out when that email was.

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Can I ask you, please, to be shown volume 10?---Yes. The email I was referring to I think was 27 August. That was the one I remember.

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So, Mr Swinson, the page is page 12 that I'd like to ask you about?---Mm'hm. 1

From Terry Burns to you. It's at the bottom of the page? ---Mm'hm.

Now, just familiarise yourself with that email again, if you need to?---Yes.

This appears to be advancing that there's need for some urgency in proceeding with the proposal?---I'm looking at an email from Terry Burns dated August 17 at 3.10, yes. 10

Asking whether it's legally possible to amend an existing contract?---Yes.

By that it's meant, is it, the contracts which are presently placed with vendors? Is that your understanding?---Yes. 20

Not proceeding to a formal tender process?---That's correct, and the context of this email is the day before 16 August, a board which I believe was called the CEO board had made a decision to move to a prime contractor model, so the decision was made for a previous day and - by the CEO board, and I believe Terry Burns was now trying to implement that position. 20

And where have you heard that the CEO board have made that decision?---I believe I was told that in an email. 30

I understand. And were you told that the CEO board had said things should proceed urgently or expeditiously to do with that prime contract proposal?---I don't know if that came from the CEO board or just from people working on the project.

Were you aware generally that there was a pressing urgency to proceed?---There was a sense of urgency, yes. 40

And who conveyed that sense to you?---Many people.

Terry Burns?---Yes.

Keith Goddard?---Yes.

And who from CorpTech in terms of an employee of CorpTech conveyed that?---The only person who I remember conveying the sense of urgency was Gerard Bradley, the under-treasurer, yes. 50

And what did he give us the reason for the need for the urgency?---My understanding of a need for the urgency was that money was being spent and it was continuously being spent and so - and that money might have been spent heading

in the wrong direction, so the new direction was needed. It would be better to stop spending that money and start spending it heading in the right direction rather than the wrong direction.

1

And what was your view about moving urgently towards a prime contractor proposal?---In a number of the documents you will see that I said, "Yes, we can move fast but there is a process that we have to go through so we can move the process along quickly, but we need, for example, four weeks to negotiate a contract as a minimum," and if we were doing it less than four weeks, it would be an undesirable outcome for the state. There would have to be a tender process and the tender process have to give the vendors time to response - - -

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Yes?--- - - - otherwise you're going to get not good responses and so therefore you're making a selection on that.

20

And your advice through this process seems to be: you must have a formal tender process?---Yes.

You ought to have - - -?---Yes.

- - - a formal tender process. And that appears to have come against some resistance anyway from the client?---Some people, yes. People were discussing various ideas as to how to move this forward quickly.

30

Yes, and it could be a closed tender - it could be expedited but one shouldn't proceed with excessive urgency? ---Yes.

Now, can I ask - you might put that volume aside. You probably already have?---Yes.

If volume 6, please, could be shown to the witness.

I'll just turn up the page, Mr Swinson. If you turn, please, to page 144, behind tab 6.3, just before (indistinct)?---Yes.

40

And the letter attached?---Mm'hm.

Page 146, draft text to vendor?---Yes.

You drafted, I think, that letter?---Yes.

And this followed on your understanding, did it, from a process which had preceded it in terms of what might be called an RFP or an RFI, or something of that kind?---Yes, request for information process. The vendors had submitted proposals, submitted information and they hadn't been formally told what was happening.

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Yes, and was this in part - the fact that process has happened was in part the reason you thought it was appropriate to have a closed tender process?---That's one reason why it's not inappropriate to have a closed tender process.

1

Yes. Could I ask you to turn, please, in the same bundle to page 163, item 6.3.26? This is an email of 27 August, so it's about the day you've talked about?---Yes. It was the one I referred to before.

10

Is it?---Yes. When you asked me, "Did Maree Blakeney raise any issues?" this is what I remembered.

Yes. I'm just looking for Maree's email. Maree's email has preceded these, obviously, has it, because you're speaking of a general topic in view of Maree's emails this morning, you'll see at the top of page 163?---Yes.

What were Maree's emails about, to your recollection? ---They're in here somewhere.

20

How about if you go to page 171, item 6.3.28?---Yes. This is Maree's email.

Okay?---So on 27 August, the relevant suppliers or potential suppliers had been told that the RFO process had come to an end and were about to enter what became - called the ITO process or the request for offer process, and we were in the process of preparing the documents to be - the ITO documents. And Mr Burns had apparently told Maree Blakeney that he wanted to meet with the suppliers. This was before they had been issued with the ITO documents, so we were sort of in limbo between the RFO and the ITO process here, working on the documentation to request to be sent out the tender documents, and my response was, as you can see, all vendors had to be treated equally. You can't just meet with one vendor or one potential supplier and not others. I believe that Mr Burns wanted to meet with Accenture and IBM, and it was unclear whether he was also meeting with Logica, who was also going to be asked to bid. I'm not sure whether SAP was going to be asked to bid at that stage or not.

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So just going to the email at page 171?---Mm'hm.

Ms Blakeney says, "I'm concerned that if the meetings are held and the identified issues and risks are discussed, the probity process may be compromised"?---Yes.

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"It may provide the impression CorpTech giving advantage to one supplier over the other"?---Yes.

Now, was that a view with which you agreed?---Yes.

And then your email in response it is at page 163?---Yes.

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SWINSON, J. XN

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What's the difficulty with meetings taking place prior to the tender invitation being issued?---The issue is that one vendor, one tenderer, will complain that another tenderer's been given an unfair advantage, so to avoid complaints, it's better to have an open and transparent process. 1

Now, the ITO is issued, ultimately. Are you taking place in settling some aspects of it, you see drafts and see forth?---Yes. 10

I won't take you to those?---The ITO was issued on the - I believe around about 12 September.

12 September, yes?---Mm'hm.

And the time for responses was 8 October?---Correct.

Now, were you involved in the evaluation process?---I provided legal advice to the evaluation panel and I provided advice on other issues as they came up; for example, suppliers asked questions and sometimes those questions required me to settle the answers or to review the answers. 20

Now, you were asked, I think, about - there was a process under the ITO document - - -?---Yes.

- - - for clarifications being sought by tender respondents?---Yes. 30

And indeed that process was utilised?---Yes.

I think you were asked about, for example, Accenture sent in a clarification about what they could do, what was appropriate?---In relation to the communication process?

Yes?---Yes. So the issue there was there were rules set out in the tender documents as to how the communication process should work but it was somewhat difficult when Accenture and IBM, and I think all the tenderers actually had contractors working day to day for CorpTech, and I think Accenture may have been concerned that they would have to stop work because those contractors could no longer do their day-to-day communications, which wasn't what was intended by that. 40

Yes. Now, you might just put that volume away, if it's in your way. Could the witness please be shown volume 11?---I have volume 11. 50

Sorry?---I have volume 11.

Very good. And it's page 739 towards the end, Mr Swinson, behind tab 11.51?---Yes.

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SWINSON, J. XN

Now, you're involved also in giving advice about a Mr David 1
- here said "Erkert", E-r-k-e-r-t, but his name is spelt
with an E-k-e-r-t?---Yes. I see that I was CC'd on this
email but I don't remember giving advice on this issue. I
believe that Keith Millman and David Stone from Queensland
Treasury legal service unit may have given advice and that
I was just CC'd.

Yes. Do you know why you were CC'd?---I asked Maree 10
Blakeney to CC me on anything that was important relating
to the tender just in case it raised a legal issue that I
had to be aware of.

Now, do you recall being involved in another issue
involving the tender where a contractor within CorpTech had
offered to Accenture, I think it was, to provide some of
the information that had come in under one of the ITO
responses?---Are you talking about the Italian contractor?

I am?---Yes. I gave advice on that. 20

And what was your advice, in summary?---The background was
an Accenture contractor had somehow obtained the IBM
pricing during the evaluation process and passed it on to
people on the Accenture team. I was contacted by the
lawyer for Accenture out of Sydney who informed me of this
and we met with Keith Millman and two senior Accenture
executives met with Keith Millman and myself, and there may
have been other people at the meeting to explain what had
happened, that the contractor was being disciplined and 30
that the people on the bid team did not in fact use the
pricing and would not use the pricing.

Yes?---And so the question arose was whether this somehow
jeopardised the tender process and so would we have to stop
and start again, in effect.

Yes. Now, could I ask you to take up - I don't know if you
still have the volume there, volume 11?---Yes. 40

And it's page 794, right towards the end?---Yes.

I want to ask you about the second point in there, "Must
not talk to anyone at all except existing arrangements"?
---Yes.

This is a meeting you're at but Mr Stone's taken the file
note?---Yes.

There seems to have been an ongoing problem about the issue 50
of people talking to potential vendors?---Yes, that
bullet point is corrected at the contractors talking to
government, not government talking to the contractors, so
both Accenture and IBM would have a habit of calling up

people in government to go and have a chat, and we did not want that happening during the tender process, and in fact Accenture broke this rule in the tender process. 1

In what way?---I believe that they - when they found out they were unsuccessful - when they found out that IBM was the preferred supplier, they called up the director-general of a minister and arranged to have a meeting during the tender process, which was in breach of the tender rules. 10

And what's your reference to - well, I'm sorry, Mr Stone's reference to accept existing arrangements there in the second part?---Accept existing arrangements were the ongoing work that had to go on, so Accenture and IBM contractors were doing day-to-day work, so they were allowed to speak to their bosses because otherwise they wouldn't know what to do.

And what to your knowledge was IBM doing for CorpTech at this stage?---I believe that IBM had a contract with CorpTech to provide various services in relation to Workbrain, Saba and RecruitASP. 20

And was actually doing work pursuant to that contract, to your knowledge, at the time?---My memory was that there are a number of contractors doing work for CorpTech at the time and that IBM had a small role but Accenture had the largest role.

The second-last dot point there, "Need to further develop ongoing future proofing of this contract": what's that a reference to? Who said that?---That would have been something I said. We want the contract to be able to survive a number of years when things might change, so, for example, in relation to payroll, the awards would change and we didn't want a contract that couldn't deal with changes to the awards, for example, if IBM was rolling the system out and had done health and then done education, and was now moving on to the next department, the landscape would change during the roll-out process, so the contract had to be future proof. Another way of saying that is "flexible to meet the government's needs." 30 40

Just let me check my notes, Mr Swinson. Mr Swinson, do you still have volume 11 there?---Yes.

Can I ask you to take up, please, that volume and I'm going to ask you questions about pages beginning 627?---Yes.

Now, do you recognise this document, 627?---Yes. 50

And what is it?---This is a note taken by either Keith Millman or David Stone summarising a meeting on 6 September where we discussed probity arrangements, so this is while we were working on the ITO documentation that

had not yet been released - no, the ITO had been - had not yet been released at this stage, so were still working on the ITO documents and we were discussing the rules to put in the ITO documents about these kinds of issues and how to engage with the offerors going forward.

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Yes, and who called that meeting?---I have no idea.

And you obviously attended in person?---Yes.

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Is that your description "probity arrangements"?---Whoever took this note made that, but it would be fair to call this a meeting about probity arrangements, yes. 1

Well, who took the note? This is a note of yours, is it? ---No, I think this is a not of Keith Millman or David Stone, I don't think it's a note of mine. I could be wrong there but - - -

If it helps, if you look at the subsequent pages there's some handwritten notes of the same date, 6 September 2007? ---Yes, they look David Stone's notes. 10

Yes. Now, does this note, to you, accord with your recollection of what took place?---Yes.

Now, the arrangements included that tender responses would be delivered to your firm, to you?---Correct.

And that was because there were contractors inside CorpTech who might have an association or allegiance to one of the other tender respondents?---I raised the concern that if tender responses were submitted in the usual way through the - it was an online portal to submit a response, we didn't know who had the contract to maintain that software system and so it could be an IBM, Accenture or Logica person who was actually involved in that and they may get to see the other person's offers, and so the way to avoid that, because this was an IT contract, was to have them delivered to me. 20 30

And did the tender respondents follow that process?---Yes.

And it's mentioned further down in the note, the fourth-last and third-last dot points - sorry, third-last and second-last, "State offices will be asked to sign a declaration affirming the duties and obligations of confidentiality. Conflicts and confidentiality position of contractors and consultants will be reviewed and reinforced desirable"?---Yes. 40

Was that done, to your knowledge?---Yes, I believe the procurement people at CorpTech, which would have been Maree Blakeney, was at this meeting with assistance where Keith Goddard did implement that process.

Did you ever see declarations of conflicts of interest or anything of that kind pursuant to an arrangement like this? ---I have a vague recollection that they were handed out. 50

And did you see any signed copies?---I couldn't recall.

Was it your understanding that contractors such as Mr Burns would also have to have their conflicts and confidentiality positions reviewed and reinforced?---Yes.

And, to your knowledge, did that occur?---Yes.

1

In what way?---I believe that there was a meeting where these issues were discussed. In fact I think there were two meetings, one where it was a meeting for the offerors and a meeting for the people on the evaluation panel.

And did you attend the meeting?---For the offerors, David Stone was going to give that presentation, but he came down sick and at the last moment I stepped in and did that for him.

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Yes?---So he had some notes prepared, which I vaguely remember that he sent to me, because I used his notes as a basis of a presentation to the vendors as part of the tender process.

And did any part of that advise the offerors they should disclose any prior contact they had with CorpTech or its contractors in respect of a prime contractor model proposal?---No, I don't think that was discussed.

20

You said there were two meetings?---Yes.

What about the non-offeror meeting?---Yes, there was a meeting for people on the evaluation panel talking about the rules of how the evaluation panel would work. So it was a (indistinct), "We're going to meet here"; "This is when lunch is going to be"; "You can't talk to anyone about it"; "These are the rules about confidentiality" and so on.

30

And did you attend that meeting?---Yes, I think so.

Were you a presenter at that meeting or were there others?---I can't recall if it was Maree Blakeney or myself who did that presentation. I can't recall.

And did CorpTech employees attend it?---From memory, there were about 20 or 30 people on the evaluation panel and so the room was quite full.

40

Did any people attend who were from CorpTech but who were contractors to CorpTech?---Keith Goddard, yes.

And did Mr Terry Burns attend?---I couldn't recall if he was there or not.

Did any of that presentation involve ascertaining the conflicts in contractors?---My vague memory is that it was said, "If you believe you've got a conflict problem, or you're likely to have a conflict problem, please raise it so it could be discussed."

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And were they the terms on which it was put?---That's my vague memory. We're talking about five years ago.

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Did Mr Burns declare a conflict or potential conflict? 1
---No, not to me.

Did he tell you at any stage that he'd worked for IBM in South Africa for many years?---I knew that, yes.

Yes, when did he tell you that?---Early on in the process.

Before the meeting of which you've spoken?---Yes. 10

Did he tell the meeting of that potential conflict?---I wouldn't know.

Did you think - - -?---The idea wasn't, "And now put your hand up at the meeting and say, 'I think I have a contract'"; it was more to do it privately afterwards because other people might have had family members working for companies or something like that.

I'm sorry, I thought you said "raise the conflicts for discussion"?---No, it was raise the conflicts so that it could be discussed by the legal team. 20

Okay?---So I wasn't to discuss it in the meeting; it was to raise it after the meeting.

So Mr Burns had raised with you before the meeting that he'd worked for IBM for a number of years?---Yes. I don't know if he said a number of years. I know he worked for IBM in South Africa. 30

Did he tell you he was IBM's top man in the Cape province for at least three years?---I don't know.

Did you think that in light of what you knew about him having worked for IBM that he had a conflict, or potential conflict, in terms of any involvement in the evaluation process?---Absolutely not.

Why is that?---In these kind of tender processes it's very common to engage consultants because the client who's going out to tender often will only do this once in a lifetime and so they don't have experience in how, so unique contractors are to assist in the process. The typical contractors you would use are people who used to work for vendors, so probably the most famous company at the time or the most well-known company at the time that was doing these kinds of services was a company called TPI, and I'd worked with TPI on a number of projects in Brisbane. TPI, one of their sales points was, "We have a number of people who used to work at EBS; we know EDS; we can help you negotiate with our former employers because we know how they operate, we know the tricks and so you want to have us on your team to help you negotiate against EDS." There are similar contractors that make a similar pitch in relation to IBM or Accenture or whatever. 40 50

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But this is a different situation. Yyou're not negotiating with EDS; you are - - -?---The - - - 1

Sorry, can I just finish?---Yes.

You're not in negotiation with one party; this is a tender process of which there will be an adjudication and evaluation of the competing benefits and disadvantages of various offers?---I'm talking about the tender process and the negotiation, so we did a contract from a major client in Brisbane who went out to tender for similar services such as this and EDS was ultimately selected and it was TPI, who were the consultants - the people who were in that position was Terry Burns and that was regarded as being an advantage, not a disadvantage. 10

And did TPI tender for that job?---TPI tender for the job with being the consultant?

No, for the substantive job?---No, TPI are consultants. They don't do IT services; they do the - - - 20

I understand?---But EDS tendered.

But you didn't see any difficulty here with Mr Burns having worked for IBM for many years also being involved in the evaluation panel for a job that IBM, among others, was seeking to have?---I believed it was an advantage having someone that knew IBM involved in the evaluation and negotiations. 30

He knew IBM, possibly favoured IBM?---I saw no evidence that he favoured one over the other.

But that's the whole point of a conflict declaration, isn't it, so it can be laid bare what your potential biased or otherwise is?---I was aware of it and I didn't think it was a concern.

You didn't think you should draw it to the attention of CorpTech or Gerard Bradley?---I believed that other people knew this, I don't think I was the only person who was told this. 40

So you thought it was material but that it had already been made known to CorpTech?---I thought it was helpful, I didn't think it was material in the sense of being a conflict.

But it makes a lie of a conflict process, doesn't it, not to have someone disclosing, at the very least disclosing, the fact of saying, "I have worked for one of the tenderers for a very long time and for some years as its top man," albeit in another country?---It would be no different, in my view, if you became a judge and then you had a case that 50

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involved Minter Ellison and you worked at Minter Ellison as a junior lawyer. It's not really a - you wouldn't see that you're favouring Minter Ellison in that circumstance. **1**

With respect, Mr Swinson, judges regularly declare, for example, a conflict they might have arising from shares held in a superannuation fund in respect of one of the parties. You're familiar with that?---Yes.

But there is no declaration here that we can find by Mr Burns - - -?---I don't know if he made that declaration or not. I was aware of this fact. I don't know if he made a formal declaration or not. **10**

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Now, in terms of the evaluation panel, Mr Burns was the project lead advisor. Was that your understanding?---Yes.

1

And that job entailed liaising closely with the people involved in the evaluation and conducting the scoring?---Yes.

And having insight into their reason and process along the way before finalization?---Yes.

10

And providing such advice as they required?---Yes.

Now, you were - it says on page 5 of the evaluation report, I'll take you to it if you like, volume 22?---I don't have volume 22, but I remember the evaluation report. Is that the one which is also in my statement or is that different?

It's the final evaluation report?---I don't have that.

I want to take you to page 5, please, of the report, Mr Swinson?---Mm'hm.

20

Behind tab 19, and to the reference to you being legal review and probity advisor?---Mm'hm.

Is that a correct description in your view of your role?---No, it's not.

In what respect is it inaccurate?---I wasn't probity advisor; I was a legal advisor on probity issues but not a probity advisor in the sense that some people might understand, so I wasn't the external probity officer which is sometimes used in these processes.

30

But you were external?---I was external.

And you were consulted on probity issues which arose?---Yes.

And you were at a meeting at which probity arrangements were put in place?---Yes.

40

You were the recipient under those probity arrangements of tender responses?---Yes.

The reason why your recipient was for probity reasons?---Yes.

There was no other external person, to your knowledge, who could be described as probity advisor?---Correct. David Stone was an internal person who was looking at probity issues and Maree Blakeney was an internal person looking at probity issues.

50

Sorry?---Yes, so it wasn't as if I was the only person who was looking at that as an issue.

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When Maree Blakeney wanted advice on things on probity matters, she emails you?---Yes, and David Stone. 1

Yes, but David Stone is not external, is he?---No, he's external to CorpTech in the sense of he wasn't assigned to CorpTech. He was a lawyer in a different building working for Queensland Treasury.

But still in the same department, Treasury?---CorpTech was a whole of government kind of initiative, so I don't know what department it was in. 10

CorpTech was in Treasury for these purposes?---Yes.

So Mr Stone is not external in a sense of being outside Treasury?---Yes.

You have said that Maree Blakeney was the person who was to deal with the evaluation and probity issues, and when she has a problem she comes to you by email and to Mr Stone? ---Yes. 20

And you provide advice?---Yes.

Now, can I take you, please, to the same volume, volume 22? ---Mm'hm.

But I would like you to turn the tab, please, to page 17 behind tab 22?---22. 30

THE COMMISSIONER: I'm sorry, where are we going?

MR HORTON: To tab 22, Mr Commissioner, page 17.

Now, if you want to familiarise yourself with this document, Mr Swinson, it's page 1 of that tab, CorpTech significant purchase plan. Now, are you familiar with this document?---When you show it to me now, I'm aware of what it is. 40

And how are you aware of what it is?---It's quite common for government departments to have what is called a significant purchase plan for significant purchases.

Yes, and had you had some involvement with this purchase plan in your earlier dealings, ie before mid-2007, with Treasury or CorpTech?---No, I have never seen this plan before.

All right. Can I ask you to turn to page 17 of it, please? ---Yes. 50

To clause 4.3?---Mm'hm.

And to these words, "An independent probity auditor will be engaged to monitor, advise and report on the probity of the procurement processes"?---Yes. 1

Okay. Is that a term in a general sense of which you're familiar when government entities contract for large-scale projects?---I know what an independent probity auditor is.

Yes?---And at this stage, this period, I was aware of state purchasing policy and state purchasing policy did not require an independent probity auditor for this kind of procurement. 10

Yes, but you were not aware, you say, of this requirement in the significant purchase plan?---This looks like it was a plan that was produced in 2004.

Yes?---I had not seen that and was not made aware of it.

Yes. You hadn't come across it when you were involved in earlier dealings with CorpTech?---No. 20

But it sounds very much like your role, doesn't it? You're independent of Treasury; you're fulfilling a probity role because you're being asked for particular advice on probity through the process?---The role of an independent probity auditor is quite different to what I did. An independent probity auditor would have to sit back and watch the process rather than participate so I was drafting documents - I was drafting part of the ITO document, helping to respond to questions involved in vendor engagement. That was something an independent probity auditor should not do and I wasn't - because I wasn't the independent probity auditor, I was doing those kinds of things. I have been in projects where there have been an independent probity auditor who will sit there quietly watching what is going on and raising issues if they see problems but not participating so I could not be an independent probity auditor. 30

But didn't you have both roles here?---It's impossible to have both roles. 40

Maybe so, but not physically impossible, you say?---It's - it's - can't audit yourself. I'd be watching myself.

Maybe so, but the point is you're giving probity advice, you're attending meetings about the probity arrangements, you know that there is no external probity auditor, yet you are also engaged in legal drafting and advising?---I gave legal advice in relation to probity issues. I wasn't the probity auditor. I didn't give a probity report at the end of the matter which is what an independent probity auditor would do, and so I didn't consider myself to be the independent probity auditor, that's a totally different role. 50

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The difficulty is, Mr Swinson, whoever wrote and signed off on the evaluation report must have thought that you were doing both roles because that's the way you were designated. Do you accept that?---I believe that David Stone is also designated both roles as well.

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Yes, yes?---And that was also unusual because you wouldn't have two independent probity auditors. If you had an independent probity auditor you would only have one independent probity auditor so again, someone reading that, if they were reading that and believed that to be true, wouldn't realise - would conclude that there was no independent probity auditor, because you can't have two.

10

Now, I would like to take you, please, to volume 11, if you still have it there?---Yes.

Sorry, Mr Swinson, just bear with me?---Yes. Just to follow up on that last answer - - -

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Yes?--- - - - I tried not to be the independent probity auditor because that does me out of the job doing the legal negotiation because if you're the independent probity auditor, then you don't get the opportunity to do the legal services negotiating the contract so - - -

Where, Mr Swinson, did you make that clear?---Absolutely clear in my - in the sign-off letter that I gave at the end of the process, so when the contract went to Gerard Bradley I said this is what I did. I gave a legal sign-off. I didn't give a probity report.

30

That's 5 December, isn't it?---Yes, that's when the procurement process completed and that's when the probity auditor would normally hand in a report.

Yes, but it's a bit late if there's been a lack of clarity about your role in the preceding process?---I don't think there was lack of clarity. I don't think anyone believed that I was the independent external probity auditor.

40

Yes. What I'm really suggesting to you: it doesn't so much matter what you thought your role was, but the point is someone is thinking you are there as the probity advisor and the only external person fulfilling that role?---I don't believe that anyone thought that.

Well, someone who drafted the evaluation report did?---Yes. I don't know who that someone was.

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Now, volume 11, please. I'll ask you briefly about this. 1
Page 700: have you found that?---Yes, I found 700.

Yes. Now, just familiarise yourself again with these, if you need to, it might be easier to start from 712, which seems to be the email which prompts the correspondence, which is there at page 700?---So you want me to look at - - -

Start at 713. Sorry, no, 712?---712. 10

It's an email from you?---Oh, yes. I am aware of this.

Yes?---Mm'hm.

Now, this arises out of seeing some comments from Melissa Jeffs, Queensland purchasing procurement services, who is the government office which is concerned with procurements, particularly of a significant kind?---Yes. 20

She raises some concerns about the process "at that stage", which is September 2007?---Not about the process. She raised - she was provided with a draft of the ITO document and raised questions about the ITO document.

Yes, and these are then sent to you, are they, for comment? ---Yes.

Now, she asked, for example, if you turn to - the easiest spot to see it is probably page 706. There's a few copies, I think, in there?---716? 30

706?---706.

She asked why it's only going out to three suppliers, you'll see about the middle of the page beneath the heading Significant Purchase Plan?---Mm'hm.

Now, did this reference to significant purchase plan cause you to think that there might be a document out there you might need to know about in terms of the procurement process?---No. I believe that was something that Maree Blakeney was looking at and she had the role of producing a significant process plan if one was needed and sending it off to have it approved, and so I believe that's what this process was. 40

The reason I ask you is, of course, that document I took you to earlier was called Significant Purchase Plan, SSS Program Sourcing Strategy in Volume 22?---Sorry, I don't know if that's what she sent to the lady who did this email or not. 50

Yes, but you, in the end, after doing a response or advice on these concerns she raises, did you - were you not given

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a copy of the significant purchase plan at that time?---No. 1
The significant purchase plan's got a whole bunch of stuff
in it, it's got nothing to do with legal issues, so
it's - - -

But you're commenting on a document which raises issues
under the significant purchase plan and you didn't think
you needed to have a copy of the plan?---Yes, and I don't
think I responded to these kind of issues. 10

Then your response to it all is at page 712. Is that
right?---Yes. my response was in relation to the legal
issues she rose, not the purchasing issues she rose.

Thank you. But she raised legal issues as well, I see?
---Yes.

Thank you. Now, throughout this process - sorry, you can
put that away. Throughout this process, Mr Swinson, there
seems to have been impressed upon you and the other 20
advisors in the role a sense of extreme urgency in
completing this process?---I wouldn't say extreme; a sense
of urgency.

Well, the ITO is issued on 12 September?---Mm'hm.

The time for responses is to close on 8 October?---Mm'hm.

That's an extremely short time frame for a major government
purchase?---It's a short time frame. 30

Have you ever seen a procurement process in government for
a hundred million dollar procurement, possibly, for which
an ITO went out and requested a response within that period
of time?---This was a unique - the answer is no, but this
was the reason this is such a unique process. The vendors
were already engaged on the project and so had knowledge to
some extent about what was already happening, so it wasn't
a new project, it was an existing project. 40

Is that the assumption, is it, that the premise is that all
the vendors who were going to respond, Logica, IBM and
Accenture?---Had knowledge about the project. They had
been in a request for information process, so that's the
information they did disclose to - - -

Yes?---So you can't just look at that period, you have to
go back to August, and so you'll say the correct period was
August to October, not September to October. 50

Is there any premise of yours that each of those vendors
was in fact doing work inside Queensland Treasury of a
relevant kind - inside the Queensland Government, I'm
sorry, of a relevant kind?---Yes.

Including IBM?---Yes, IBM.

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And what, in particular, was IBM doing within the Queensland Government at the time to your knowledge?---IBM was a contractor to CorpTech in relation to the Shared Services program.

1

Yes. What work was IBM doing, to your knowledge?---IBM was involved in the implementation of Workbrain, RecruitASP, Saba products.

In which agencies?---It was a whole of government initiative and so they were doing it - my understanding is it was a whole of government solution that had been built and then would be rolled out agency by agency, so they may have still been building the whole of government part, the core part.

10

Which agency had IBM done work to your knowledge at this time?---I don't have any knowledge.

And if it wasn't doing work at that time, would that change your opinion about the time within which respondents had to submit their offers?---It was very clear to me that IBM had less knowledge than Accenture, but Accenture had an advantage in this process and one of the roles that I had was to try to make sure that there was an even playing field between the tenderers, and so my suggestion, a large of volume of information was collected and provided to all three bidders so that they could have a level playing field and that information was catalogued and actually included in the contract as scheduled and included in the contract, so it was clear what everyone had been provided. So the idea was to bring everyone up to speed to the extent that IBM knew less. Yes, IBM did know less; that was clear. Accenture had an advantage at the start of the process.

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Can I move to a final topic?---Yes.

You had no association with Mr Burns before mid-2007?
---Correct.

40

You met him as part of the process I've just taken you through?---Yes.

You had some association with him subsequently in the form of being a shareholder in a company in which he was involved?---Yes.

And that was an associate formed as a result of having done the work we've been discussing?---Yes.

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And that association was fleeting in the sense that you were no longer involved?---Yes, it was for a few months.

That's the evidence of Mr Swinson, Mr Commissioner.

COMMISSIONER: Mr MacSporran?

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MR MACSPORRAN: Mr Swinson, there's some urgency about this cross-examination. You had done a considerable amount of government work prior to this project?---Yes.

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You'd been on the panel for how long, approximately?
---Mallesons had been on the panel for - since at least 99, 1998, and I was the main person at that stage on the panel, so - - -

And you'd started doing work, I think you said in your statement, the government, in about 98?---Yes, might have been 97 but at least 98.

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And certainly since you became a partner in 99, you worked extensively with government until this point?---Yes, primarily Queensland Treasury.

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And your area of expertise was in this area, obviously? 1
---Yes.

And when you were first approached it was in a situation of some urgency, for your advice, initially?---Yes.

But you took the trouble to remind the person who had contacted you that there needed to be a process gone through even to engage you?---Yes. 10

And you referred them back to the panel arrangements? ---Yes.

And then you were engaged formally under those arrangements of the same day, earlier in this day?---Yes.

You had the meetings you've told us about, you provided, initially, oral advice?---Yes.

One of the first things you advised was that despite what had happened before on lead up to your engagement, you could see that there needed to be a full formal tender process?---Yes. 20

And you made sure that was put in place?---Yes.

And whilst there was some urgency about that entire process, the reasons you've given us, you didn't feel at any stage those time constraints compromised the advice you could give. Is that a fair way of putting it?---That's correct. And there were periods of time when work was being done that I wasn't involved in, but work was being done so it wasn't extreme urgency. But I managed to trips to Sydney, Melbourne and London during this process and still keep involved, it wasn't one where I down tooled on everything just to get this done in a short period of time. 30

No, and you made the point early in the piece that if this matter continued, as it ultimately did, you'd want another lawyer on your team to manage it?---Yes. 40

And that happened?---Yes.

Is that the gentleman who took the file note you identified?---Yes, Steve Meck.

Steve Meck?---Yes, and as time went on we added more lawyers as well.

As required?---As required. 50

To make sure the task was done properly, albeit in a constrained time frame?---Yes.

It's not unusual, is it, for lawyers to be engaged in circumstances of extreme urgency?---Yes, that's correct.

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And you just have to resource the job accordingly to get that work through?---Yes.

1

One of the things you did do, and you seem to have done very carefully, is to have input into the content of the ITO?---Yes.

You mentioned in your statement that there was something like 17 drafts for that?---Yes.

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And that took some time to formulate, given those numbers (indistinct) I assume?---The first version I saw was on 22 August and I believe it was finished on 12 September, and so there was a large amount of work going on in that period of time.

All right?---And part of the problem was there were lots of people working on it so how did you merge it together, because some people were asking for the same thing or stating the same thing but in different ways, looking at it from different views. So how did we make it consistent so when you're having a lot of people working together to bring it all together is hard.

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So is that one example of the care you took with this work? ---Yes.

The input into the ITO itself?---Yes, this was an important project and I wanted to make sure that it went well.

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Now, you also said that it was appropriate to have it as a closed tender process?---Yes.

You've recently been referred to the significant purchase plan, can I just take you to that quickly, I think it's volume 22?---Yes.

And it's either tab or item 21 or 22?---22, is it? Item 22?

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I think it starts at 27?---Page 1? There's two versions - - -

I see?--- - - - in this folder. I don't know the difference between them, I haven't seen these versions before.

Can I just ask you to open one of them, at least, at item 2.9, which headed Market Analysis in the document, so it's page 10 of 18. The pagination's at the bottom left-hand corner, 2.9?---Sorry, what, we're on tab 22?

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Try tab 22, they're versions of the same thing?---Yes.

Now, to 2.9, it should be headed Market Analysis?---Yes, I've got 2.4: Market Analysis.

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I'm sorry. It might be 21, sorry?---21? 1

Yes, sorry, it is 21?---These are different documents, I believe.

Yes, this one relates specifically to the shared services solution program - - -?---Yes.

- - - for the prime contractor?---Yes, this looks - just looking at the one in 22, it looks like an older one because it's got Murray White who was involved much earlier in the process, and Dr Carol Smith. They were involved in, I remember, the 2005 time frame. 10

Yes?---This next one says - the one in volume - - -

Item 21?--- - - - 21 is a much later on.

Yes, I think you identified the earlier one as being 2004 or thereabouts, so this one supercedes that and is specific in relation to the shared services solution program, prime contractor for that program?---Yes. 20

2.9 is market analysis?---Yes.

Now, quickly look at that and read that to yourself, and over the page, just Accenture?---Yes.

I take from what you've said already you may not have seen this, but does it reflect your understanding of the process that if there's to be a closed tender process it needs to be, as it were, justified, you need to explain the factors that you'd considered?---Yes. 30

And the reason why you think it's appropriate to have a closed tender process?---Yes.

To summarise it, is it the case that there had been an open tender process back in 2005 when a project, in its infancy, had commenced, all the same contractors were to be invited to submit proposals?---Yes. 40

Of those 11 or so three or four did respond, and in those circumstances for the reasons set out in item 2.9, it was considered legitimately there would be no reason why there would need to be a further open tender process?---Yes.

And that essentially is the view that you come to, perhaps without looking at this program?---When I'm considering these issues, this is not a document that I'm typically given as a lawyer although I'm aware they exist. What's is of more concern to me is to make sure that this competitive tension, you don't want to have one supplier have a tender process where only one person submits an offer, or a tender process where you've got two people in an offer where 50

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there's great disparity between the capability and so there's no competitive tender. In this one here, there was strong competitive tender between Accenture and IBM, so from my point of view it looked like the purchasing process was working. If you had competitive tension and both parties were keen and both parties were trying really hard to get this work, that's a good outcome to maintain leverage in discussions and negotiations.

1

Yes. It might have been convenient in a tight time frame to have a closed tender process, but it was perfectly justified for the reasons given in that analysis?---Yes, and not unusual.

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Not unusual in that circumstance?---Yes.

There's another example of the care you took in your early involvement, the meeting you attended which was noted where you advised on the probity arrangements, we've seen that Mr Horton took you to that document. For the record, it's volume 11, page 627, I think?---Yes.

20

That's of 6 September 07, before the ITO went out?---Yes.

And you were careful in that meeting to deal with the issues that should be dealt with in terms of the probity arrangements?---Yes.

And care was taken with those at that time?---Yes, up until December 5, in this period.

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COMMISSIONER: Have you still got the document there, Mr Swinson?---Which document is that, Mr Commissioner?

4.3, please?---In volume - - -

It's tab 31 in volume 22?---Tab 31.

Page 12 of 18, but it's - - -?---I have it.

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- - - clause 4.3, it's headed Legal Advice, two pages after the one that Mr MacSporran took you to?---Yes. It says, "Legal advice has been provided by John Swinson, December 4," and then it goes on, "Mr Swinson will continue to provide support to the rebuild project team to monitor, advise and report on the probity of the procurement processes." Do you say that doesn't accurately describe what you were asked to do?---I provided legal advice when probity issues were raised, or if I saw a probity issues but was concerned and then I raised it. But it wasn't my role to me - an independent probity auditor has a special meaning.

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I understand that, but this says that you would continue to provide support to monitor, advise and report on the probity of the procurement processes. Do you say you

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weren't asked to do that?---When issues arose I was asked to provide legal advice on probity related issues, yes, that's correct. **1**

What about monitoring the probity of the procurement processes, was that part of your role?---No, I wouldn't say I was monitoring the process, that sounds like I was off to the side monitoring it.

So whoever wrote this got it wrong?---Yes, it looks more like government speak than what actually happened. I guess from my point of view I was providing legal advice, and whenever I provided legal advice up until 5 December it was taken so people didn't - there might have been disagreement but at the end of the day I gave my advice, and I can't remember a circumstance where it wasn't followed in this time period. My concern was there's no point in going through all this, getting to sign a contract and not being able to sign a contract because one of the other vendors complains and then you have to start the process again, so that would be a huge waste of my time and I don't like to be in that situation. **10**
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MR MACSPORRAN: Mr Swinson, you knew Mr Burns had worked for IBM for many years in the past?---Yes. 1

He told you that?---Yes.

Had you seen his CV at all?---No.

In any event, he was quite open with you about that background?---Yes, and when you're talking about things, how in these scenarios be drawing on the knowledge and past events, so he can say, "Ah, we had a similar situation in Fonterra," I knew he did some work, I think was a consultant to Fonterra in New Zealand, and so he had mentioned fairly - so you'd pick it up in passing or - not - you wouldn't sit down in an interview and ask him - - - 10

No, it just came to your knowledge that - - -?---Yeah, in conversation.

Fairly early in the piece?---Yes. 20

In any event, for the reasons you told Mr Horton, you didn't see that as being a concern in relation to a conflict or a potential conflict?---Saw it as an advantage.

And for that reason you didn't inform anyone in government about any concerns you had about that issue?---I didn't have a concern so there was nothing to report and I would have assumed that adjourn the usual process to engage a contractor, a resume is typically provided to show experience and so a resume would have - whoever looked at the contract, whoever did the contract for Mr Burns would have seen his resume. That would be the usual assumption. 30

But from your point of view, this didn't rise as an issue at all, wasn't reported anywhere?---It was more than 20 years ago in another country.

Yes?---It was not a probity issue. 40

Right. Thank you.

COMMISSIONER: Thank you. Mr Doyle?

MR DOYLE: Thank you. Do you have your statement with you? Just a couple of things that arise out of it I want to take up with you. Go, please, to paragraph 33, and I mean your first statement?---Yes. The other one's only got three paragraphs. 50

Yes. Now, a relating issue there that arose before the ITO was issued and we know that was issued on 12 September, concerns raised that events like this, you say, could occur?---Yes.

You're aware, aren't you, of a complaint made by IBM as to material being available within CorpTech or within agency, I think the way it was expressed, to other vendors?---I wasn't aware that IBM made that complaint, no. 1

What's the issue that you're relating here?---The issue is the one about the what I call the Italian Accenture contractor.

Although you say, related to this issue, there was a concern raised and you identify that, if I'm reading correctly, as raised before the ITO was issued?---Yes, so the concern was a general concern, not a specific - - - 10

To you or in large but not a specific thing?---Yes. I think it was me but I wouldn't be 100 per cent sure, but it said, "We have these IT workers here. We need to be careful about security issues."

When the Accenture contractor, the Italian contractor - - -?---Yes. 20

- - - issue arose, did you find out how he accessed the IBM processes and was able to provide it to someone in Accenture?---No, there was no detailed investigation that I was involved in.

Who within CorpTech was, if anyone, was going to investigate how that occurred?---There are people who were aware of it, Barbara Perrott was aware of it, Keith Millman was aware of it. I think Maree Blakeney was aware of it. I'm not sure who else. There was a meeting - I'd have to look back at the meeting notes. From my point of view, it was an issue that arose late in the day and it was an issue that Accenture could have been excluded from the whole process. 30

Look, I don't want to stop you from telling me that, I just want to know if you know if anyone whom we might speak to was investigating how it occurred?---No, I don't. 40

Okay. Thank you. Would you turn, please, to page - to paragraph 44 of your statement where you deal with an issue which you described as Workbrain scalability?---Yes.

And that means what?---So whether it would work for a large number of awards.

Right. so its capacity to be enlarged to meet the demand of whatever size. Okay?---Yes. 50

And you're aware that there were to be some tests for scalability conducted?---That was after the contract (indistinct).

Yes?---Yes.

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SWINSON, J. XXN

You're aware that a process was put in place by which there were to be some tests conducted?---Yes. 1

And you say that - I think you have a vague recollection, you were told they were not positive?---Yes.

When?---When was I told this?

Yes?---It might have been a long time after or it might have 2009, 2010. 10

And you're aware of the tests being conducted and completed in May 2008?---Was I aware in May 2008?

Yes?---No, I wasn't aware.

Were you aware in 2009 or 2010 that the tests were conducted and completed in May 2008?---I knew they'd been conducted - when someone the tests had been conducted, I knew it must have been prior but my memory's very vague. 20

You know that a test was reported upon in writing?---No, I don't.

And I take it from that answer you were never shown a copy of the reports?---No.

Thank you. Now, some other small things. I want to take up with you again this question of the conflict as it's described involving - that is, the requirement for Mr Burns to declare - - -?---Mm'hm. 30

- - - his previous employment with IBM. Have I understood you correctly to say that you would expect on his engagement someone to have looked at his resume?---Yes.

And that someone would be someone within the body of people responsible for engaging contractors within Treasury?---In the office that Maree Blakeney worked at. 40

Right. And I'll show you, if we need to, but can I ask you to assume that there were probably three CDs provided but they disclose in various ways his engagement, employment with IBM in South Africa from 1974 to 1980?---Mm'hm.

Starting as an apprentice and leaving having won some marketing, various marketing awards. That was the way it's described?---Yes.

Now, recognising the nature of the ITO process that you were involved in some 27 years later, do you see that his having been employed by IBM back in South Africa 27 years earlier as material?---Irrelevant. 50

Next, can I ask you to go to - do you have volume 11, please?---Mm'hm.

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Would you turn to page 794?---Yes.

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You were taken to this memo earlier today?---Mm'hm.

I just want to understand how it comes to be dated as it is?---So that's 22 August.

But it seems to be, doesn't it, 2008, or 08 anyway?---That looks like it does, doesn't it? Yes.

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It's unlikely mistake for someone in the middle of 07 to write "08", isn't it? Just read the document again, if you would?---So if it was about the procurement process, it would be a mistake, but let's have a look.

What I'd like you to think about is: is there any event a year later which might be explained by the things which appear on this page?---My memory was that David Ford was - David Ford was the assistant under-treasurer, that he was involved at this stage and that he stopped being involved in the process shortly after this. So the way to check the date would be to look at what David Ford's role was at Treasury and when he - - -

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COMMISSIONER: The note that is said to be the SSS RFO, that must be 07, surely.

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MR DOYLE: Yes. It might in fact be a note of things being discussed in 08 about things that occurred in 07? ---Maybe. When you're talking about the RFO, it looks like around this time - and I could check my notes to see if we had a meeting on 28 August 08. So I believe that on 28 August, I had a meeting with David Ford - - -

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08?--- - - - to discuss the RFO process, so that was from my file notes.

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But tell me though, which year you're talking about for this to be meaningful?---07.

Right, okay?---So I did have a meeting with David Ford on 28 August 07 so that looks like a mistake.

A mistake in the date?---In the date, or bad handwriting.

Okay, I understand that. Now, one file topic?---Mm'hm.

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You said in the course of getting evidence about a desire to ensure there was a level playing field and part of least, that included providing enough information to enable IBM to be as well informed - hopefully better informed anyway, better informed than it was and hopefully as well informed as Accenture was?---Absolutely.

And that you required - or at least you suggested a lot of In relation of information be included in the ITO, or provided - - -?---Provided as part of the process.

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I'll go to it if you need to see it but at the back of the ITO document, there's a part G - - -?---Yes.

- - - which lists 18 attachments?---Yes.

You're familiar with that, at least?---I haven't looked at that for years but I will take your word for it.

I want to suggest to you that it contains 18 attachments which include, if you were to print them out - many thousands, probably tens of thousands of papers of data - - -?---Yes.

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- - - is at least that consistent with the kind of approach you have been identifying?---Yes. I prefer to take you to the contract with IBM and have a look at the very last schedule, schedule 47, where there is a document and it's called, "The following documents were used as inputs when responding to the ITO," and so we collected all of that up to reference and it goes - this goes on for one, two, two and a half pages, the fine handwriting, the fine print.

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Yes?---And so maybe it's those documents, maybe there's more than that that were provided but there was a large amount of documents provided to IBM.

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Very good. All right. Thank you. I have nothing further. 1

THE COMMISSIONER: Thank you. Mr Devlin, do you have any questions?

MR DEVLIN: Yes, thank you, Commissioner, just one question.

Mr Swinson, were you ever formally engaged in writing to be an independent probity auditor for this process?---No, I was not. 10

Thank you. I have nothing further.

THE COMMISSIONER: Mr Horton?

MR HORTON: I do have one question in re-examination, Mr Commissioner.

Could the witness please be shown volume 27?---Can I give back 2, 11 and 10? 20

Yes, please. I'm only going to take you to one document and ask you some questions about it. Mr Swinson, it's the tab there, 25.5, page 230?---Yes.

Now, it was suggested to you by Mr Doyle, this proposition was put to you that Mr Burns works for IBM in a foreign country and ends his associations some decades ago?---Yes. 30

And then he is deciding the evaluation?---Mm'hm.

You said in effect that fact was irrelevant?---Yes.

Could you read this email, please, just the one at the top that is above the line appears towards the end?--- Yes, so this is one where it says col, is that what I'm reading?

Correct, and dated - depending on which date you read it, but 2 May 2007 on the top right-hand side?---So this is an email from Lochlan Bloomfield to Colin Powell. 40

Colin - yes?---I'm assuming that's not for General Colin Powell.

I assume so?---I don't know who - I know who Lochlan Bloomfield is; I don't know who Colin Powell is.

Yes. Just read the email for a moment and then I will ask you some questions?---Yes. 50

Now, just take that email on its face for a moment?---Yes.

In terms of what Mr Burns is reported as having conveyed?---Yes.

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Do you still maintain the view that the historical fact of Mr Burns having worked for IBM is irrelevant?---The historical fact of its own, yes, is irrelevant. 1

Okay?---This is Lochlan Bloomfield who was a sales guy who had recently joined IBM from Accenture. He may have been exaggerating his own influence within IBM. It's maybe a true statement. I have no idea.

Just take the email - I accept what you say?---Yes. 10

Just take the email on its face for a moment, having said what you've said but take it on its face for a moment? ---Mm'hm. What Terry is coaching is that the - - -

Well, it's really this point: there's a reference to Fonterra. Do you see David's previous engagement part of Fonterra. Were you aware that Mr Burns - between working for IBM and coming to work with CorpTech had been involved in a project for Fonterra in New Zealand which had involved IBM?---Yes, but IBM was on the other side of him. 20

Quite so, but were you aware that Mr Burns had had involvement with IBM since leaving employment with IBM in South Africa?---As a consultant negotiating against IBM?

Well, in a program which IBM was involved but not as an IBM employee or contractor?---I had general knowledge that IBM was a contractor to Fonterra, not because of Mr Burns but because of other people that told me that so I knew that at this time - - - 30

So is it of relevance to you then that Mr Burns might have had involvement - since he had worked for IBM in South Africa with IBM albeit in a different capacity?---Well, again, this is one - if his role was negotiating against IBM, that's relevant to show that he had experience in negotiating against IBM so that's relevant.

What about if Mr Burns did indeed describe himself as a long-term IBMer? 40

THE COMMISSIONER: Long time?---Long-time IBMer.

MR HORTON: Sorry, long-time IBMer?---He was once a long-time IBMer, yes, I guess.

It's relevant to you, these matters?---Yes, it's relevant, yes. 50

Relevant, did you say?---It is relevant, yes.

Relevant to his potential conflict?---Yes, that's a relevant issue. If he's saying to IBM, "I'm here to coach you to help you to win," if that's what in fact he was

saying - before, this was all before the process started in fact before I was involved in this, if that is what he was saying to IBM, "I'm going to coach you to win this project," that is a concern.

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I'm really suggesting to you that this email - just take it on its face for a moment, recognizing that Mr Burns hasn't yet ben called but just take his email on face?---Yes.

For Mr Burns to be saying those things is clear evidence of a conflict of interest involving IBM which ought to have been disclosed; that is, the fact that he had previously worked for IBM and had involvement with them in other countries of the world, more than one?---The fact that he was negotiating against IBM but he was contrary to them, I don't think so - it's a conflict issue - - -

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And that's essentially what you would draw, would you? If was negotiating against IBM - - -?---Yes.

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- - - that it doesn't mean - it would mean that he pretends not to have a conflict?---Yes.

What about if he was involved in selecting IBM for that project? I'm not suggesting that he was - for example?---Mm'hm.

You keep limiting it to negotiating against. What do you mean by that?---I'm involved in many procurement processes where sometimes Accenture wins, sometimes IBM wins, sometimes EDS or HP wins now. The fact that I am involved in one where IBM wins one year and then the next year IBM wins the next year, I don't think it shows that I am biased towards or against IBM.

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THE COMMISSIONER: Can we go back to Mr Horton's question. Taking the email at face value as we have to at the moment, neither Mr Burns nor Mr Bloomfield have been called yet but if, as the email suggests, Mr Burns was coaching IBM to put forward a bid that he would strongly recommend, would not that make his position on the evaluation panel untenable?---Yes.

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MR HORTON: Thank you. That's the re-examination.

MR DOYLE: I'm sorry, there are things that arise out of that that I would like to ask the witness, if I may.

THE COMMISSIONER: Yes, very well.

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MR DOYLE: Thank you.

THE COMMISSIONER: Mr Horton will have his usual right for re-examination.

MR DOYLE: Of course, yes.

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Mr Swinson, are you aware of any procurement bid which was under consideration in May 2007?---For CorpTech?

Yes?---No. Well, I wasn't engaged until August so - - -

Thank you. Could Mr Swinson be shown volume 2, please. Can you open to tab - item 2?---This is Mr Burns's resume.

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I'm going to take you to three of them, but I want you to go to page 2, please.

COMMISSIONER: Item 2.2?

MR DOYLE: Item - mine may be tabbed differently to yours, Mr Commissioner.

COMMISSIONER: What page?

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MR DOYLE: It starts at page 1 and I want to go to page 2? ---I have a page 2, which is handwritten notes of it. Is that - - -

Yes. Well, ignore that because I don't know who's put them there?---Mm'hm.

You'll see the reference to Fonterra?---Yes.

And you'll see it includes, "Directed a large team, including IBM, Capgemini, EDS, SAP, SYSTOC and others"? ---Yes.

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Is that consistent with your understanding of what Mr Burns did at Fonterra?---He didn't explain to me in great detail what he did. I knew about the Fonterra because I went to a presentation - in fact, a presentation organised by TPI, another group of consultants who were involved on the Fonterra deal as well, and they explained what was happening, so when Mr Burns said he worked on Fonterra, I had a general understanding of what it was because I've heard the CIO of Fonterra give a presentation about the deal around about this time.

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Do you recall whether the consultants of Fonterra - well, sorry, the IT suppliers at Fonterra included Accenture? I don't mean from that document?--No, I haven't. 1

You don't know?---Don't know.

All right. Would you turn to item 3, please, of that volume?---Mm'hm.

If you turn to page 6?---Yes. 10

Do you have there another CV of Mr Burns or a document that relates to his experience?---I've got a different document.

Item 3?---Item 3 in mine is a company extract.

You're looking at 2.3, is that - - -

COMMISSIONER: 3.1, Mr Swinson, it seems I've got. 20

MR DOYLE: Thank you.

COMMISSIONER: It's Mr Burns' CV?---This is - I'm sorry, I'm lost here. Oh, I see, on page - Mr Burns' CV, it starts off, "Strictly confidential."

MR DOYLE: Correct.

COMMISSIONER: Yes. 30

MR DOYLE: Yes. Okay. Now, this is the kind of document that you, I think, said in your experience would be given to someone within CorpTech procurement to deal with?---Yes.

Now, if you turn, please, to page 9?---Mm'hm.

We see it lists Fonterra and some details about that? ---Yes.

COMMISSIONER: It's the same, isn't it? 40

MR DOYLE: No, it's not exactly the same; it's very close. Would you turn to page 13?---Mm'hm.

You see the reference to IBM to which I refer?---1974 to 1980?

Correct. And I'll take you to one more document and I'll ask you a question about it. This time it's in volume 32? ---I don't have volume 32, sorry. 50

You'll be given it, I think?---Can I put this volume - - -

Yes, you can. Item now 29.1?---Yes.

Should have another CV, this time of Mr Burns providing some letterhead of Information Professionals. Do you know what that organisation is?---No.

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All right. Well, I'll ask you to assume that it's a consultancy through whom, at some point, Mr Burns's services were provided to CorpTech?---Yeah.

Directly or indirectly?---Mm'hm.

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So again, this is the kind of document that would be provided to CorpTech for being dealt with in whatever way they deal with these things?---Yes.

Would you turn, please, to page 2. We see the same reference or a similar reference to Fonterra?---Yes.

And lots of other things in between?---Mm.

And reference at page 6 to his engagement by IBM - actually, just his engagement this time, from 1974 to 1980. Do you see that?

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COMMISSIONER: Mr Doyle, I'm having trouble hearing you.

MR DOYLE: I'm sorry, I'll speak up. Page 6, you'll see reference to his engagement as a trainee to branch manager in 1974 to 1980?---It doesn't say IBM here.

No, this one doesn't but it's obviously referring to the same thing as the others?---Yes.

30

Now, just help me, please, in circumstances where that detail has already been provided to CorpTech, is it still the function of the probity system in relation to an ITO to make the same declaration again. Have you understood my question?---Yes.

And what's the answer?---Depends upon the circumstances.

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All right. That's helpful. Thank you.

COMMISSIONER: Mr Horton?

MR HORTON: No re-examination, Mr Commissioner.

COMMISSIONER: Mr Swinson, thank you for your assistance? ---Thank you for allowing me to do this (indistinct).

Thank you.

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WITNESS WITHDREW

MR DEVLIN: Thank you, commissioner. We shall withdraw.

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COMMISSIONER: It was a pleasure to see you. 1

MR DEVLIN: Thank you. Likewise, commissioner.

COMMISSIONER: Now, Mr Goddard is here, I see.

MR HORTON: Yes, he is. We had him brought back.

COMMISSIONER: We might as well use that half hour. Mr Doyle, does that suit you? 10

MR DOYLE: Certainly.

COMMISSIONER: Mr Goddard, would you come forward, please?

GODDARD, KEITH RICHARD called:

MR DOYLE: Just so we can - sorry, Mr Goddard, when you're ready. To put things in context, before lunch I was dealing with this proposition with you: I was asking about this proposition. You were shown an email by which an IBM representative asked to confine a particular presentation to Mr Bradley and to the balance of the steering committee, I think it's described as, and in the next paragraph offering to give the presentation to a bigger group the second time. Do you recall that? I'll show it to you again?---Yes. No, no, that's okay. 20

And just to deal with that one little further bit, can you go to volume 28, please, to page 595. You should have there an email from Mark Foley, is it, at CorpTech?---Yes. 30

To Mr Bloomfield and others, setting out the list of the CorpTech attendees and there's a long list there?---Yes.

Including you. And you recall, don't you, that the email that I took you to before lunch was a suggestion by Mr Bloomfield in fact to have a smaller group first and then to have this big group second - - -?---Yes. 40

- - - so that Mr Bradley and the executive - well, the steering committee could have a complete understanding of what was provided. That was the tenor of the email? ---Correct.

Okay. And I thought you said you thought that was inappropriate because of the proximity of the something? ---Yes.

And the something is?---The RFI, RFP process, we're starting to talk about the difference in those two items. The RFI became the RFP process somewhere in a period of in the order of four weeks. The RFI process, as I understand it from the time and that was our consultation with procurement, had different constraints over it than 50

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did the RFP process. So in that journey of four weeks
somewhere, it transitioned from a more open environment to
a more closed environment. Opening meaning if you go right
back to the date at the beginning of that of 2 July and I
understand the briefing, the initial briefing occurred to
the RFI, part of that was giving those present access to
the senior members of the CorpTech team, the
Shared Services team, access to them to get information to
help them better understand the RFI position. Somewhere in
the journey when you move into an RFP process, and I'm not
an expert in procurement but in our consultation with
procurement at the time, you transition to a point of a
more formal process of RFP where the constraints are
different, you cease how you negotiate your suppliers as
they prepare themselves for a competitive position.

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Right. Can you point to a piece of paper that you would describe as the request for proposal, other than the email of 25 July which I showed you before lunch?---I don't know of a document or something that then marked that transmission.

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I'll ask that you take up that email again, which is volume 6, I'm sorry, associate. Volume 6?---Are we done with this one?

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No, we're not done with that one, we have to balance at the moment. Can you turn, please, to page 41, and this is the document I took you to before? Do you recall that, Mr Goddard?---Yes, I remember seeing it before.

Now, is this, and I'd appreciate if you can give me a yes or no answer, is this sent in the course of the RFP process or the RFI process? If you can't give me a yes or no to that, tell me which of those two it is?---I don't know because I don't know the time that it transitioned from an RFI process to an RFP. The answers I was giving to you before, I looked at my map and worked out it was in the order of five to 10 days prior to the evaluation, so you crossed approximately a halfway point between that process. In my judgement of this, looking back on it, it's getting close to the RFP process - evaluation process.

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This document asks for people to come up with a proposal which is to be made the subject of some presentation, so that this document contemplates there will be a meeting between the supplier and someone to whom it is presented, doesn't it?---Yes.

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And that someone is described as, or at least includes, senior management group at some stage. Do you see that? ---I can't see those exact words but - - -

Okay, paragraph 6, "The process we wish to follow from here onwards is to collate these proposals from all interested suppliers by 7 August 2007, and we suggest that you may wish to make a presentation to the senior management group before this date"?---Yes.

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So it was telling people they can at least do that if they chose?---Yes.

And you know, don't you, that IBM took up the suggestion of making that presentation?---Yes, the RFP process. Yes, the RFP presentation.

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They put forward a response to this email - - -?---Yes.

- - - and they took up the invitation of making a presentation to senior management?---My understanding is that senior management would have been the evaluation panel.

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Well, do you know if IBM took up the invitation to make a presentation to senior management?---They took up the option to do it to an evaluation panel which included senior management. 1

And are we to understand that it's okay, in terms of what you considered to be appropriate, for them to have made that presentation to the evaluation panel but inappropriate to have made it to Mr Bradley and the steering committee members?---That would seem unusual if it's the same presentation for the same purpose, yes. 10

Unusual but not inappropriate, surely. What's the logic to suggest it's inappropriate to do it that way?---Only my senses tell me you're in a procurement process, you are responding to the procurement process in the agreed fashion and I don't think - I can't recall that being part of the process we had agreed to that all suppliers, or a supplier, would have their presentation done separately to a different set of people on the evaluation panel. 20

The process doesn't say the presentation would be to the evaluation panel, does it?---No.

It says "senior management group". That would include Mr Bradley, wouldn't it?---Not necessarily.

It wouldn't? What about Ms Perrott?---Could do.

Could do? All right. Now, would you mind going back to volume 26, please?---I've got 28. 30

And would you turn, please, to page 1169, please. It's two sheets from the back?---Yes.

Okay, I'll ask you to assume this is notes of meetings, okay, I want to take you to. And the first one seems to be a note of a meeting on 2 August attended by Mr Bradley, Mr Ford. Is Mr Ford part of the steering committee?---I don't know. 40

Would he be within the description of senior management? You can't help me?---Not really.

Okay. You answered about Ms Perrott. Mr Burns, he's senior management or not? Senior management group, is he a member of the senior management group?---I think that comes down to the context at the time, if you're talking about somebody in the senior management group or the executive group. 50

Well, I'll ask you to help me with that. When the email goes on 25 July saying, "You may wish to make a presentation to the senior management group," doing the best you can, would you expect that to include Mr Burns when it came to the presentation?---Most likely, yes.

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You?---Possibly, yes, probably equal.

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You're part of the senior management group? Mr Goddard, please, would you say you're part of the senior management group?---The senior management group has connotations to me for being the (indistinct) for the SSS management group, that's what it conjures up to me. It's less about the rebuild group and more target as many CorpTech SSS management.

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Joanne Bugden?---Could be but possibly unlikely.

And Maree Blakeney?---Probably not.

Okay. Now, you attended a meeting, didn't you, on 2 August with three senior Accenture officers, Mr Snedden, Mr Porter and Mr Salouk, with some people at least who were not, you would describe, members of the senior management group?

---I'm not sure who - I know Simon Porter, I'm not sure I know the other - who are the other people?

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Doug Snedden: do you remember him?---No.

And Marcus Salouk?---I don't remember them.

Do you remember this meeting?---On 2 August? No.

You attended a meeting at Queensland Treasury offices with Mr Bradley and those other people, and you say you can't recall that?---No.

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Did it not happen then?---I can't tell you that. I can't recall it. I very infrequently met with the under-treasurer, so when you call out meetings with the under-treasurer it would have been a very rare circumstance for me to be at a meeting with him.

Had you had a meeting with this group of people, and I want to assume there's Accenture officers present but not other supplier present, so you understand it's a meeting between Accenture and people on the other side, the government side, so to speak. on 2 August 2007, would that have been, in your view, inappropriate because of its proximity to the RFP?---It's in a very close proximity to the evaluation process, yes, it would.

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And did you, to the best of your recollection, write a note to someone saying, "It is inappropriate for this meeting to take place"?---I don't recall doing that.

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You didn't do it, did you, you know you didn't do it?---No, I don't recall doing that.

You would recall if you had done it, Mr Goddard?---I think that would probably be right, but I can't recall the meeting, so - - - 1

Okay. Now, I want you to go through what appears there. This is - I'm not sure if it's the form of a meeting or an agenda for the meeting, we're not sure about that. Objectives: you'll see, read them to yourself. Have you read them?---The objectives? Yes. 10

You'll see that one of the objectives that was, I'm asking you, which was discussed at this meeting was to confirm Accenture's commitment to act as systems integrator. You can recall that being told to you by Accenture at a meeting?---No, I don't remember any of this.

They said that they wanted to engage with the executive prior to the workshop on 7 August?---No.

Do you recall that?---Don't recall that. 20

If that had been said, that would have been, you would say, inappropriate?---Yes.

That they wanted ideally to test one or two key ideas, test in a meeting with the executive prior to the workshop on 7 August, one or two key ideas. Do you recall that?---No.

That would have been highly inappropriate on your measure of things?---Yes. 30

Then I want you to note under the heading "Proposed Topics". Read those to yourself, please. You can recall - sorry, finish reading them, I'll tell you about them when you've done that. Can you recall a meeting at which some Accenture representatives said that they were concerned at the risk of whatever response they give to the RFP, for want of a better description, whatever response they give, might find its way out into the market or out to other suppliers. Do you recall that?---No, I don't. The whole - all of these, I don't have any recall of this occurring. 40

Okay. Thank you. I want you to go over the page now to 1170. Can you recall at this meeting that these following things were directly raised by Accenture: that they sought confirmation that Treasury could in fact buy, commit from the process of the RFP; that is, whatever response was given to the RFP, Treasury could accept it and contract with one of the parties. Do you recall a meeting at which that was discussed?---No. 50

That would be inappropriate, wouldn't it?---Yes.

Because the RFP process is known to be one which is the first step of another step, namely the issue of a public offer under an ITO?---No. There was some discussion that

out of an RFP one of the things you can look to do is take the offer and then move further through it to the point of potentially contracting, thereby negating the tendering process, so that was one of the avenues that was being explored.

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Okay. Well, can I ask you this: can you tell me if that was ever disclosed, that proposition was disclosed to IBM prior to its presentation on 7 August?---Not to my knowledge. It's only just now I'm recalling that one of the intents of the RFP was that it would accelerate and that was one of the things we were looking for, is there a faster way than going to full RF - the tendering process. I don't recall being involved in any discussions around taking a proposal and taking it to a point of contract.

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You don't recall such discussion?---I don't recall that.

Now, I want to suggest to you, if you go to the next part of page 1170, that there was a meeting held on 8 August attended only by the people that are named there, that is Mr Salouk, Mr Porter, the under-treasurer, the deputy under-treasurer and Mr Burns. Now, did Mr - were you aware of that meeting prior to reading this today?---No, but the process of taking an RFP through to completion was just starting to emerge now from memory but I don't recall being involved in any of that, so no.

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Right, but if there were such a meeting, and I'll ask you to assume, included the presentation of an executive summary of Accenture's proposal, so that small group of people, consistent with what you've said to us earlier today, you would see that as inappropriate?---Okay. So where I'm coming from now is the RFP - if the proposals have been put, evaluated in some way and determined to be okay, part of the procurement process, as I understand, you can take any one or more of those proposals and potentially move to a contract position of procurement constraints around that, so that would be what this would be looking at doing.

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You know that's not right. This is a meeting on 8 August. The proposals were presented on 7 August, weren't they? ---My timing is the evaluation process was somewhere around 6th to the 8th. I'm not sure which of those days it was.

All right. So was the evaluation process completed by 8 August?---I can't tell you it would have been.

Right?---Yes. I don't think it was a long process. It's either the 6th or the 8th; I haven't got the information with me to determine which way it is, but it certainly would be inappropriate to have that conversation around a proposal without theoretically having been through the evaluation process.

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That's in your view?---In my view.

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All right. Thank you. But all of those - the two meetings that I referred you to on that note are things which are, is it fair to say, news to you?---Yes, at this point.

Very good. Can you have, please, volume 24. Would you open it, please, at page 134. You should have at the top an email from Mark Foley. He's a CorpTech person. Do you have that?---Yes.

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Dated 31 July?---Yep.

So it's after the email of 25 July that I showed you earlier to Mr Porter. Now, you know him to be an Accenture man, don't you?---Yes.

Copy to Mr Burns and to Dianne McMillan, whom we've heard of before?---Yes.

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And you'd agree with me that what it makes plain is that there are booked two sessions, two meetings, one for an Accenture presentation on 7 August at their offices attended by a significant number of people - - -?---Yes.

- - - and a second one or a different one on 2 August at Santos House attended by a smaller group of people?---Yes.

And that smaller group of people comprises Mr Bradley, Ms Perrott, Mr Ford, Mr Burns, you, Ms Bugden and Maree Blakeney?---Yes.

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That's precisely the same group as was to be give the narrower presentation by IBM?---Yes.

Did you attend that meeting on 2 August?---I don't recall.

And did you attend the presentation on 7 August?---Yes, I think I would have been present for that one.

40

The likelihood is, if you're listed as someone who's going to attend, you would?---That is generally right, yes.

And can I take it that you don't remember complaining to someone that this is an highly inappropriate process to have followed?---No.

The truth is it wasn't and you knew it wasn't?---I'm not saying I knew it was going, am I?

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You attended a presentation by Accenture on 2 August?---On the 7th?

On 2 August with Mr Bradley, Ms Perrott, Mr Ford, Mr Burns and Joanne Bugden and Maree Blakeney?---No. I thought we

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were talking about the first one. The first meeting there on 7 August, I'm acknowledging it is likely I was at that meeting. I'm not acknowledging the one on 2 August which includes those people you were talking about.

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The likelihood is if you were nominated as attending, you would have?---Generally, yes. 1

Okay. And I suggest to you, you did?---I don't remember excusing myself from a meeting of that type for any reason. I don't remember attending a meeting of that nature.

Well, do you remember being told that there was to be such a meeting?---No. 10

All right. Going back to the first page of that, that is, after the list with all the names, you'll see Mr Foley is saying to the Accenture man, "Should you need executive meeting times prior, please be in touch with Dianne McMillan?---Yes.

You were aware, weren't you, that invitation was in fact being made to Accenture?---I don't recall that.

Where were you physically positioned relative to Ms McMillan's office?---My recollection of that is - - - 20

In August?---Sorry?

In August?---My recollection is that the three of us shared an office for a period of time and Dianne moved out. I couldn't give you the date in which she moved out of that office and left the two of us, but I think that's how it worked, I'm not quite sure if I actually had an office next door, they moved in when they moved out. 30

When she moved did that mean you and Mr Burns were left sharing an office?---There was a significant period of time that Terry and I shared an office together, yes.

Right?---I couldn't give you the exact dates from and to.

And did she maintain your diary, or did she sort of keep track of where you were going to be at various times?---I couldn't tell you. We could have had - normally, though, I would say I normally keep control of my diary, so it's unusual for me to get other people to do that on my behalf. 40

Well, stepping back now, if you would, looking at these things that I've shown you, you accept, don't you, the nature of this RFP, the email of 27 July, was firstly expressed at a very high level of generality, it didn't have a lot of information attached to it?---Can you just say that again? 50

The email of 25 July, that's the one that I at least have been calling the RFP, the one inviting - it says, "The kind of information we're after from you is a firm proposal," and it lists some things. Do you recall that?---Yes.

It is a shadow of, by comparison to the ITO in terms of information provided, it's nothing?---Correct. 1

So it was inviting people to come up with some ideas? ---That's right. I think it was called "free form".

Was it? Who called it that?---I think I've seen documentation that talked about it as being a free-format proposal. 10

Okay, that's good. The nature in which those proposals were to be presented was by sending something in writing, but then by coming and meeting and talking to people?---I believe that's right, that they were given a window of time to present.

Yes, and the presentation was to be not to some identified people but a group which are described merely as senior management group? That's true, there's no sort of evaluation panel identified, there's no protocols for whom you contact, it's that you would make a presentation to the senior management group?---I acknowledge that's what that email talked about. 20

And you can't tell us now who constituted that senior management group?---No.

But you know, don't you - - -?---The recollection I had is around the evaluation panel process, I haven't got a recollection at this point in time about a separate process which is actually taking the proposals and looking to take them forward, particularly in reference to a time frame that was in advance of the evaluation panel evaluating for all proposals. I don't have a recollection of that sort of process happening either before or after, but particularly before the evaluation process. 30

You're certainly conscious that there was an arrangement by which both Accenture and IBM and I assume Logica would attend and make a presentation to various people who were interested within CorpTech?---The evaluation panel. 40

And you're aware, aren't you, that as well both Accenture and IBM and possibly Logica were making a presentation to a smaller group?---No, my understanding is it's the same evaluation panel group they were putting it to.

Right.

COMMISSIONER: Mr Doyle, can you explore this further in the morning? 50

MR DOYLE: Probably not, but I'm finished now, your Honour.

MR HORTON: Before we rise, commissioner - - -

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COMMISSIONER: Yes? 1

MR HORTON: - - - could I tender some further volumes of the bundle?

COMMISSIONER: Yes.

MR HORTON: It's volumes 36, 37, 38, 39 and 40.

COMMISSIONER: Well, I added them to exhibit - it's 4, 10
isn't it?

MR HORTON: You did, Mr Commissioner. Thank you, if I may tender those.

COMMISSIONER: Thank you.

MR HORTON: I've got to make sure copies go to this, I might hand it to your Honour's associate. 20

COMMISSIONER: You may do that after I go. 20

WITNESS WITHDREW

THE COMMISSION ADJOURNED AT 4.31 PM UNTIL THURSDAY, 21 MARCH 2013

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