



## 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 15/03/2013

Continued from 14/03/13

DAY 5

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

THE COMMISSION COMMENCED AT 10.01 AM

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COMMISSIONER: Good morning.

MR FLANAGAN: Good morning. I call Shaurin Shah.

**SHAH, SHAURIN RAJANIKANG** affirmed:

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MR FLANAGAN: Could you give your full name, please?  
---Yep, Shaurin Rajanikang Shah.

Thank you. And, Mr Shah, have you signed a statement in relation to these proceedings?---Yes, I did.

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

Is that the statement you executed?---Yes.

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And are the contents of that statement true and correct to the best of your knowledge and belief?---Yes, they are.

Yes. I tender Mr Shah's statement.

COMMISSIONER: Yes. Mr Shah's statement, exhibit 18.

ADMITTED AND MARKED: "EXHIBIT 18"

MR FLANAGAN: Mr Shah, you hold a masters in mechanical engineering. Is that correct?---Yes, I do.

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From what university?---(indistinct) Institute of Technology in India.

Thank you. And in March 2006, did you apply for a position with CorpTech, known as the implementation project manager?---Yes, I did.

And was that a part-time position or a full-time position?---It's a full-time position.

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And was it a permanent position in the public service or a temporary position?---No, it was a temporary position.

Thank you. And after you obtained that position, did you become involved with the implementation of the SAP solution across a number of state government departments?---Yes, I did.

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And when you undertook that project, can we just have some understanding of where you stood as the implementation project manager in the hierarchy of CorpTech. We understand at the time you joined, Mr Geoff Waite was the - - -?---Executive director.

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- - - executive director of CorpTech?---Yeah, true. 1

Is that correct?---Yep.

Who did you answer to directly?---I answered to a gentleman called Bob Cramp, who was the director of communication services.

And who did he answer to?---He, I think, from memory, answered to Darrin Bond. 10

Darrin Bond. And Mr Bond - - -?---Reported to - Mr Bond to Mr Waite.

And subsequently to Ms Barbara Perrott. Is that right? ---That's right.

Now, there are a number of implementation project managers, were there not?---There were a number of them, yes. 20

How many?---I don't recollect exact numbers but there are two streams of work, there was the financial (indistinct) and the (indistinct) stream, there was probably about four or five, and finance roughly about four or five.

All right. Now, what was your involvement in the implementation of the SAP solution across those state government departments?---So there are 26 government agencies involved in the Shared Services Solution, roughly about 26, and each project manager would be assigned to a certain agency to engage with the agency and carry out the (indistinct) roll-out. I was assigned initially to the Department of Education in training. Subsequently I was assigned to DEIR then. Also, there was a Cluster 3 project, there was a Shared Services agency called Cluster 3. So that project, later on in the cycle, I was involved with QPS. So, yeah, I was involved across multiple agencies across the project time. 30

Right. Now, at approximately mid-2007, did you stop your duties as an implementation project manager and did you join a team of people for a project known as project rebuild?---Yes, I did. 40

And who was heading project rebuild?---Terry Burns was heading up the project rebuild.

All right. And was a Mr Keith Goddard also involved? ---Absolutely. 50

And you know both of those men?---I came to know through the project rebuild, yes.

Yes, and you started to work in that team. Who else was in that team apart from Mr Burns and Mr Goddard?---And there

was a secretariat and there were a whole lot of people from the organisation, the existing SSS organisation who were drawn into - sorry, doing the role that people are doing. So, for example, there was my peer called Ms Trish Panning. She was running the RFI process. So, yeah, there are a number of people who actually (indistinct).

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And just testing your memory, when you first joined the project rebuild, what stage had it reached?---Yeah. So I joined roughly around end of July, early August, from memory, and I actually straight jumped into the ITO straight, so pre-ITO sort of preparation stage.

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Who deployed you to that position?---Mr David Ekert, whom I was reporting to then because there was some change (indistinct) that time.

And was Mr Ekert part of project rebuild?---I'm not sure, but he might have been put into project rebuild. Inter-organisation was brought in and put into it. And I must say, I actually wanted to because I had sent an email to Ms Jan Dalton and asking her to sort of induct me into project rebuild, if it's possible, and this was probably because of my request.

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Now, was it in approximately July/August 2007 - - -?  
---Yeah, roughly around that time.

- - - that you first met Mr Burns. Is that correct?---Yep.

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All right. Now, can you tell me, what was your role in project rebuild?---Yes. Initially when I started, the task that was given to me was purely about reporting, project reporting. That was the first task I actually started with because Terry and Keith, and the rest of the project rebuild were actually running the whole rebuild. We actually wanted to do some presentations to the (indistinct) and stuff like that, and we wanted to show how we are making progress, so the first (indistinct) that was asked to me was to sort of assist in preparing the presentation. From then on, I went and as they got more comfortable with me, note my strengths probably, I actually started helping Keith in drafting the ITO, writing the questions and sort of coordinating the inputs that will go as a back up information to the ITO. That is how it started.

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Now, in relation to the structure of the ITO, there were a number of - there was an evaluation panel. Correct?---Yes.

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Can you tell us who was on the evaluation panel, as such?  
---On the ITO evaluation panel?

Yes?---From memory, there are about six or seven teams, so there was a functional and technical team. Both of these

teams were headed by Mr Darrin Bond. And the functional team, thanks to Melinda had the evaluation report and I've gone through that. We had two people in the function teams who were quite key, Ms Sandra Bolton, who was then the HR business solutions program lead and we had Keith Millman, who was the finance lead, so that constituted the functional team. And the technical team, from memory, we had Darrin Bond again as a lead and then we had Gary Palmer, who was heading the technology team then. We had Bill Willmott who was the senior person there. So those were the two teams. There are other guys, probably. Philip Hood was (indistinct) officer was heading the support and operations team along with (indistinct) or someone. There was Benford's team and Mr Craig (indistinct) was present, along with a couple of other guys. There are also agency representatives, like Mr Damon Atzeni from Health and I don't recollect - maybe Rob Mander from Education or something like that. So that is that team. And there was Mark Lewis, who was managing the (indistinct) team and Mr Malcolm Campbell, who was managing the implementation roll-out team. And there was cost team, that was headed by - it changed hands. It was initially Ms Joanne Bugden which later on got changed to Ms Colleen Orange, along with Rose DiCarlo.

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And yourself?---And myself, yeah.

Who picked you to be on the cost evaluation team?---I don't recollect who picked me up personally in going to the team but there was a need felt to help Ms Colleen Orange with the job that she was doing considering that she was absolutely new to the organisation and the idea was one of the most complex process that the organisation had ever taken, she needed some helping hand with some people who could actually assist her with the technical and the implementation (indistinct) because it was not just a commercial number-crunching sort of exercise, it was a technical commercial exercise, and she needed some helping hand, so I regularly remember her telling me that, "Look, you'd be helping me," and I said, "That's no problem." The other thing might happen, this is my assumption, that we didn't have - like in sports we have people on the bench. You know? If somebody's injured, you can call people from the bench. We didn't have anyone on the bench who would have had all the knowledge of the ITO and the understanding of the architecture (indistinct) of the ITO who then be picked up and say, "Look, by the way, this lady needs some help. Why don't you come and join?" So the choices were limited, I guess. I did grab one of the three coordinators, grab Mr Terry Burns is probably not appropriate given that he was sort of (indistinct) grabbing Keith Goddard, but he was the architect of the ITO, he's running the main part of the ITO process, so the only choice that left was me and probably that was the - they had no choice, I think.

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Yes, but do you recollect who asked you to be on the cost team?---I don't recollect who asked me but, as I told you earlier, Mr Flanagan, I recollect vaguely the conversation that Colleen saying that, "You'd be part of my team." That's what I vaguely - - -

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Can I take you to volume 19, then?---Yeah, sure.

And could you turn to page 42?---42. Yep.

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This is the evaluation criteria matrix - - -?---Yes.

- - - for operations and support?---Mm'hm.

Did you play a role in establishing these evaluation criteria matrixes?---Are you asking about the operations and support or the whole evaluation?

The document itself, did you - - -?---Yeah, I did. Yeah.

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You did?---Yep.

And you created the matrix for each of the sub-teams. Is that correct?---I didn't create it personally. I might have drafted it and we had to process them from - - -

Right?---To which we actually finalised it. But, yeah, it might have been me that actually worked on it, yep.

If you look under IBM and down the very last column, you'll see "advisory coordinating members"?---Sorry, I'm missing something. Under IBM, sorry, yeah, yeah, that's right. Yep.

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"Advisory coordinating members: Terry Burns, Keith Goddard, Shaurin Shah"?---Yep, that's right. Yep, that's me.

That's for the operations and support. Could you just then turn to page 83. This is procurement and legal?---Yep.

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"Advisory coordinating members: Terry Burns, Keith Goddard, Shaurin Shah and John Swinson"?---Yep.

And then best by way of another example, if you turn to page 127, you'll see "Advisory board meeting members: Terry Burns, Keith Goddard, Shaurin Shah, Francois Van Leel and Amanda Doherty." Do you see that?---Yeah.

Do you recall who Francois Van Leel was?---Francois and Amanda were two consultants, to the best of my knowledge and my recollection, they were two consultants. I don't recollect the name of the agency, though, Mr Flanagan, but they were two consultants possibly hired to provide some very specific technical advice that was required on the ITO.

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In any event, do you have a specific recollection of them being involved in the evaluation process?---Not really in depth but they might have been floating around at times, yes.

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All right, but is it fair to say that you, Mr Burns and Mr Goddard were the advisory coordinating members for each of the sub-teams?---Absolutely, yeah.

Now, can you tell us what role that - in that role, what was your function and what did you actually do?---Right. So in that role, what I did was basically coordinate inputs. I mean, it is six years back so my memory has faded a little bit. I'll try my best. So the coordination of inputs would be like each team were given their own sections of the ITO to evaluate. For example, the functional team and technical team would be given their part. They would have questions about you know how these things were done, what is the actual meaning of this question because also we were also part of the drafting of the questions, so clarifying the intent of the question at times. You know? They also say things like, "You've actually raised this question. Now, is this answer (indistinct) or is it covered by someone else in some other team." You know? Because, with respect, it was a big ITO with lots of questions. You know? So things like that, they would ask me or they would ask Keith. You know? Mainly me or Keith. And then they would sort of get that clarification, ruled out the question, who then go to Maree Blakeney, who then send it out to the offerors and get the clarification. So that is sort of one of the roles. The other thing we would do is possibly (indistinct) the scoring sheets that you saw, each team are required to score and they're required to, at the end of the evaluation, like two weeks time, they're required to come up with a formal and final score, so they needed, sort of, some sort of a secretariat sort of (indistinct) but it's likely more educated secretariat. You know? So we would give that kind of help as well in terms of - - -

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Sorry, can I just stop you there?---Sure.

Maree Blakeney was involved in this process, was she not? ---Absolutely.

As procurement officer?---Yes.

So when you say "a more informed secretariat", are you speaking of yourself, Mr Burns and Mr Goddard rather than Ms Blakeney?---Yeah, I'm speaking of myself.

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You're speaking of yourself?---Yeah.

Is it the fact that you actually took on the role of the secretariat for this process?---No, not correct; no,

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because I was part of the cost team as well. It was not possible for me to be at two places at the same time because two are different locations.

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Quite. Can I ask you this question though?---Sure.

In the role of advisory or coordinating members, was it part of your role, Mr Burns's role and Mr Goddard's role to speak to the various sub-teams and identify in discussions with them the questions they sought to be clarified?---No. It wasn't our role; it was the other way around.

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Yes?---The teams were actually find out the questions themselves because they would read through the ITO and say, "What does this mean?" and then they would call one of us, whoever is available or - and it's a very iterated process because they would just call us and say, "Look, we have this question," so it was (indistinct).

And once they had raised the question, who actually drafted the clarification questions that were directed to the tenderers?---We were - actually, teams would draft the question at times. Sometimes we would draft and go back to the team and say, "Look, this is what - were you looking - this is something that you're looking for." So within the team or one of the coordinators, you would draft a question and then that would go (indistinct) of course, the team lead would have a look at it before it goes out to Maree Blakeney and then Maree would send it out to the offerors anyway.

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All right. Now, given that you were a member of the cost evaluation team - - -?---Yep.

- - - you also had in this advisory role the freedom to speak to the other evaluation teams, didn't you, in respect to what they were doing?---Other evaluation teams, meaning?

Meaning - - -?---The other cost teams?

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Yes?---Yeah, of course, yeah.

Yes. Did you ever have occasion to discuss cost in your discussions with the other sub-teams?---We had, yeah.

And at what stage?---Yeah, we had a couple of occasions and, of course, will be processed today I probably will take you through that, but there were occasions where - and that was one of my roles, you know, and if I may spend some time - it might take 10 minutes or 15 minutes - to explain this because of a difficult thing? Do you want me to explain that?

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We would appreciate that?---Okay, cool. Right. Then I need some documents because - - -

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Yes. Would you like evaluation documents?---I would like the ITO. **1**

Yes?---And I would like the documents that were sent to me yesterday by Ms Melinda.

All right?---It is called - the document is called Cost Breakup for Accenture.

Yes?---And I'm just speaking Accenture because that's the only thing I could read; the other document was not readable. **10**

Could Mr Shah be shown volume 12 then, which is the ITO?

COMMISSIONER: Yes.

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MR FLANAGAN: Also, Mr Shah, are you referring to the cost schedule for Accenture?---Yes. 1

And we have similar cost schedules for IBM, and there would be a similar cost schedule for Logica, but we're going use this - - -?---I'm just trying to demonstrate a point, I'm not sort of having biased in it, I'm just trying to make a point.

Thank you?---Yes, if I may start - - - 10

Do you mind if I sit down while I listen to this?

COMMISSIONER: No?---May I start?

Yes, but tell us what page you've got open?---Yes, so I'm on page 20 of the ITO, page 20 of volume 12.

Yes?---So you would see that there's a picture that me and the ITO team sort of created, it's quite a small form, but the point I'm making is that you can clearly see phase one and phase two of the ITO there. I'd like to point out there phase one, and particular the box, the docket box, which talks about five items, which is money transitioning. 1B: (indistinct) management, 1C: shadow management, 1D: forward planning, 1E: priority code of government, 1F: release and production support. Just focusing there on 1E, which is priority code of government, 1E, is what I'm trying to highlight. So one of the rationales of ITO was to sort of deliver what was not being delivered throughout the SSS program, and agencies were actually sick and tired of the mining tax. So one of the main issues that CorpTech was facing, and I saw that as part of my tenure in SSS, was that there was only one (indistinct) out of 26 agencies because most were struggling to perform, there was HR - sorry, a (indistinct) payroll for Housing. And all the agencies were actually - and some of the agencies were actually adding Legacy systems like LATTICE and DSS, so they were actually not going to sustain that. I clearly remember after Terry Burns' review, and he went and saw the CEO subcommittee, one of the - there was a governance committee called "CEO Subcommittee" in the sector. One of the advice that was given was that all the Legacy HR payroll agencies should be given a priority, in the order of Queensland Health, QCS, DS and DET, and that's somewhere a document in the ITO as well. And then if the remaining thing is there, the priority should be given to the finance, and one of the key things that we had designed as a strategy for the ITO was to make sure a concept of why we're putting - building the awards, which was the most difficult part of the whole HR payroll solution. Mr Commissioner, you have heard from Mr Darren Bond, the submission a couple of days back that award in SAP was the most difficult part to do because it uses complex (indistinct) four language (indistinct) customise it, it's 20 30 40 50

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a very consuming, costly item, time consuming. So one of the things which was required to be done up front was to create something which Mr Burns is to call as plastic wrapped (indistinct) sort of items which would be on the shelf for the HR and the finance solutions. So through this exercise, we wanted to get that up front and done, you know, and put it on the shelf so that the agencies later on can pick it up and start rolling it out. One of the other key things I would like to note there is on page 20 (indistinct) forward planning, because that was another activity that people is struggling. I do recollect watching Mr Bond and mentioning to him, Mr Commissioner, that one of the main issues that SSS was facing was to make sure that the agency scope was fixed and finalised, and there was a struggle for four, five years. So the intention or the strategy behind creating the forward planning exercise in parallel to the priority core build was to make sure that the scope of the agencies, at least the core in the shared part, is fixed in no sooner than we appoint the prime contractor. So what happens is we have this core fixed, we have the (indistinct) wrapped objects lying through the prime contractor who know the job very well, they're world class companies, so we don't have to engage the contractors. And once that is there on the shelf we can then roll out using different models, and that's precisely the reason you see in the ITO, and that is reflected, Mr Commissioner, in the pricing schedule as well, that part 1G and part 1H, although they're a part of phase one they were not part of fixed price, they were actually best estimate. Because we didn't want to commit to the fixed price, we wanted to make sure that all these products are available to us. There is an item which, in the ITO - and excuse me, I'm just looking into my notes, item 2.6 in the ITO, please. Yes, this is on page 24.

Yes, I've got it?---Yes, so, Mr Commissioner, it says after two bullet points that, "Awarding of the subsequent statement of work will be dependent on the outcome and the successful completion of the initial statement of work." And that was a key strategy that was reflected in the way we actually outlined the pricing structure of the ITO, because we wanted to make sure that the fixed price items are actually price and they are (indistinct) available for the sector. And then we go to the best estimate and, depending on the performance of the prime contractor, you're not committing it to roll out. So keep that in the back of your mind, and then I want to take you to the Accenture cost breakup sheet. And if you could turn to item 5.5, which is on page 5 of 16, please. So there are four items, Mr Commissioner, on page 5 of 16.

Yes, thank you?---At the bottom, it's 5.50, 5.51, 5.52 and 5.53 on the other page. So we see on the far right-hand column there, there's a column for comments, and from Accenture it says - and this is for illustration, I must

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say; this is not any biased or any (indistinct) when I say that - it says, "We have included in our estimate proof of" - sorry, it's 5.5. "Please note that we have changed our approach as per request by CorpTech, and move this activity into line item 1E." Now, that's a very clear thing to note, and this is the kind of activity that I performed as part of the costing team, this is a technical (indistinct) thing. When we started doing the cost number crunching, we realised that Accenture had actually (indistinct) strategy, I don't know and I won't comment on that, pushed us into committing into 1G and 1H of the ITO, which was the implementation of the HR payroll in priority phase one items which is only required best estimate, but putting the awards into that slot we were actually committing into those two items, so it was important for us to bring the price parity and compare apples with apples and also make sure that the government is not sort of disbenefitted, for one of a better word, and also get the award sorted out. At this stage, we didn't know who was going to be final offer so we had to make sure that in relation to all IBM have been able to deliver on this strategy that I just outlined five minutes back, and would be able to provide the (indistinct) awards as desired by the ITO. This is just an illustration of the kind of activity that would happen in which then we would go back. In this particular instance, to answer your original question, sorry, I gave a long wind on, but to answer your original question, Mr Flanagan, that this is an activity where I would not - the costing would go to someone like Mr Bond and discuss this item (indistinct) and then discuss this in detail.

MR FLANAGAN: Just so we can understand your evidence in that regard, it was the case, wasn't it, that Accenture rather than giving a best estimate for items 5.50 and 5.51, which were the HR awards for Health, HR awards for QCS, and the HR awards for DES and DET, that they actually gave a fixed price or what they called a "not to exceed price"? ---Yes, that's correct. But if I could just elaborate on that - - -

And IBM gave best estimates. Is that correct?---So if we're still with ITO, I would like to clarify that point regarding the stream (indistinct) so if we turn to the pricing schedule, which is the in the ITO at page 4, from memory - I'm sorry, (indistinct) something's missing. Oh no. Yes, sorry. Yes, so in that volume 12, page 60 - and you see from page 60 all the way to 65, in the second column you see that was requiring - transitioning was fixed price on page 61, program delivery fixed price, (indistinct) management fixed price, forward planning fixed price, priority code of reference fixed price and (indistinct) production support fixed price. Right, if you turn to page 66, we, as a customer - if you see column 2, Mr Commissioner, on page 66, second column says best testament. So the requirement of the ITO clearly stated to the offerers that they are required to give best testament. Now, not to exceed is actually new ones of best testament and I don't have a clear clarity but if some documentation is provided to the court I can maybe clarify, but I have a vague memory that not to exceed price from the Accenture was given with a whole lot of provisos and some information that the offerer sort of accepts the government position, that the scope is not clearly defined and hence you are only asking for best testament. So there was a notion, Mr Commissioner, that was exhibited in that statement that is opportunity, you should clarify the scope in the next six months, that there's an opportunity or there's a possibility that the price might change. So the not to exceed price is not necessarily (a) a fixed price and (b) it wasn't even asked for.

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Could I ask you this then: to ensure that you are comparing apples with apples how did you adjust to the IBM best testaments and how did you adjust the Accenture not to exceed prices where for best testaments they had given a fixed price or a not to exceed price? What process did you go through for that?---Yes, so from the best of my memory - and again, this is something that Colleen Orange should have been answering because my role was technical but to the best of my knowledge the IBM's prices were best, just an estimate, were taken at the face value as the best estimate for Accenture. The same numbers were taken. That is my recollection.

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Now, I appreciate that you didn't have, according to your statement, any involvement in the request for proposal process. But were you given the proposals that were presented by Accenture and IBM in response to the RFP? ---Yes, I think I voiced a few hesitations, they're still some confusion - at least I still have some confusion about this whole terminology Mr Commissioner about RFI and RFP. The two things that I want to clarify there from my perspective; that I joined the program (indistinct), as I said earlier in my statement, right at the point when the idea was going (indistinct). So I have a very vague

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memory, talking to my other colleague as I mentioned, Trish Prabeen, about RFI. So although I might have confused or mentioned RFP I have absolutely no collection, recollection sorry, of seeing or - seeing any document which is formally referred to as RFP. I'm sorry I don't have any (indistinct).

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All right. Can I just show you volume 8 then, page 1132, please?---Volume 8?

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Volume 8, page 1132?---Sorry, I missed that, one thousand, one hundred?

And thirty two?---Yes.

Had you seen this document and indeed, this indicative pricing summary of IBM with - - -

COMMISSIONER: Mr Flanagan, I'm sorry, what page are you on?

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MR FLANAGAN: Page 1132.

COMMISSIONER: Thank you?---I'm seeing this page for the first time ever.

MR FLANAGAN: All right. Similarly if I showed you volume 7, page 662?---662, you said?

662. Had you ever seen that pricing schedule of Accenture?---No, the first time I'm seeing this.

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All right. Just to be clear this document commences at page 650 and is 111 pages long. Had you ever seen that document before you participated in the cost evaluation for the ITO?---No.

Thank you. Did anyone ever bring to your attention that indicative price ranges had already been provided in relation to this project by IBM and Accenture?---No.

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Can I then take you to volume 6, pages 62 to 66? We can take it, Mr Shah, having not seen those documents before today, that you were not involved in evaluating those proposals?---Like I said earlier, Mr Flanagan, I've absolutely strong recollection that I have not seen this document.

Good - - -?---I straight jumped into the ITO.

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Correct. Thank you. Just for completeness, can I show you page 62?---Of volume 6?

Of volume 6, which is dealing with the phase three rebuild? You understand what "phase three rebuild" means, don't you? ---Yeah, roughly; yes.

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Yes. It seems to be a strengths and weaknesses document by way of evaluation of the proposals presented by Accenture, IBM, Logica and SAP in response to what's called the RFP?  
---No I haven't seen this document.

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No. Good, thank you. Now, can I take you to a letter dated 17 August which we'll find in volume 26 at page 1167?

COMMISSIONER: You'll have to give me the page again.

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MR FLANAGAN: 1167. I'll wait to give the page to your Honour gets the volume.

COMMISSIONER: I am paying attention, Mr Flanagan.

MR FLANAGAN: Yes. Excuse me, your Honour, I've just got - - -?---Did you say 1167?

Yes. Could you just give me a minute, please? Sorry, it's volume 6, page 1246. I'm sorry. This is a draft letter but if you go over the page you will see that it was sent to IBM and, indeed, others, but it's saying:

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*Thank you for the information you provided as part of the selection process. We've reviewed the responses submitted in the RFI process. Our feedback to you is that Accenture and IBM's responses were the most highly rated. We are now entering a formal process to select a prime contractor. We will provide more information to you shortly. Please contact Terry Burns on telephone if you have any further questions.*

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Do you see that?---Yeah.

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Now, to your knowledge, after that letter was sent did Mr Burns have contact with IBM and Accenture and Logica in relation to a proposed RFO process?---I have no recollection of that, sorry, because I was probably new to the team then.

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But at one stage did you come to know Ms Maree Blakeney was to be the only contact point for tenderers in relation to the process?---Yes.

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And do you know when that occurred?---No, I don't know when exactly that occurred, it's six years back.

Can I take you back to the ITO in volume 12, then. If you could turn to page 6 of the folder?---Page 6?

Page 6. You'll see there that the ITO itself refers to:

*A supplier briefing will be conducted on 17 September 2007, at 10 am in the training room at level 6. Offerors are to review the invitation to offer documentation prior to this briefing.*

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The documentation was issued on or about 12 September 2007, and so the offerors; that is, Logica, IBM and Accenture, were given time to read the offer and then to attend the presentation. Now, did you organise that presentation? ---I don't think I would have. It might have been done by Maree. My recollection is that it might have been done by Maree Blakeney.

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The presentation?---The organisation of the presentation.

All right. If you look, then, under item 6, Offer Inquiries:

*Offerors are encouraged to seek clarification on any part of this document, where necessary. Questions must only be sent by email to the contact officer listed in the summary schedule -*

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and that contact officer, as we know, was Ms Blakeney? ---Yes.

Is that correct? Can I then take you to volume 29, page 733?---Page - - -

733?---Yes.

This is an email from an IBM representative to yourself, is it not?---Yes, I can see that.

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Now, we just read that any inquiries were to be made through Ms Blakeney. First of all, how was it that an IBM representative had your email details?---Honestly, I don't



know how he got this email. Sorry, if I may ask, if I may, do we have an email preceding this that I would have sent anything to him? I mean, if this was addressed to me back, is there are a question I sent to Paul and then this was a response, or is this directly to me from nowhere? 1

It seems to be an email directly to you, and my question is: why would an IBM representative have your email?--- Yes, no, I agree with you, it should have ben addressed to Maree Blakeney. The only good thing, though, is that it is actually CC'd to Maree Blakeney. 10

Quite, but how did they have your email, why would they have your email?---I have no idea. The only assumption I can make, Mr Flanagan, is that CorpTech have a simplistic way of defining email addresses. My name is Shaurin Shah, it is my first name dot last name would be my email. This is, again, six years back, I don't have a recollection. Again, I think I worked with Paul Surprenant from IBM, because later on he become part of IBM. He's a technical guy, so we might have used his - I'm just assuming there was some smart thinking to send this email, I have no clue. 20

It says:

*Hi Shaurin, section two: build and implement the additional finance, and there are several agencies involved that are in italics in the list that are not included in the previous material.* 30

So it's a specific request in relation to the addition of a number of agencies in the scope of the ITO, yes?---Yes.

All right. I'll ask you the question again. Why would a representative from IBM be emailing you directly, albeit that it's copied in to Mr Burns, Mr Goddard and Maree Blakeney?---As I said earlier, Mr Flanagan, I don't know why he chose to write to me. I can only say that I have a very clear recollection that I didn't provide any email addresses or made any direct contacts with any of the offerors, to the best of my knowledge. 40

The reason I asked you whether you were involved in the presentation on the 17th is that one could imagine that if you were coordinating the presentation for the offerors on the 17th, that because of that coordination role they may have emailed you direct. But you didn't coordinate that presentation, you've said?---Yes, to the best of my memory, I didn't do that. 50

No?---I might have done that, but I have no idea.

You see, to the commission it would appear that an email such as this is seeking clarification on the pricing issue directed to you, would suggest that there was a history, or could be a history, of email exchanges between yourself and

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IBM representatives in relation to pricing topics?---You have a right question, but I can confirm as a witness that I didn't have anything to do with any of the offerors during the ITO.

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Finally, can you give an explanation to the commission why you would have been emailed by IBM five days after the issuing of the ITO?---It's the same thing, Mr Flanagan, I don't - I haven't given my email address to any of the IBM or any of the offerors. I don't know how Paul got my email address. A possible theory, as you said, could have been (indistinct) meeting and I might be in the copy of that meeting and, hence they would have got everyone's email address through that.

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You see, when the RFP responses were sent, albeit indicative pricing ranges, the pricing range for Accenture was in the order of 176 million?---Did you say "RFO", sorry?

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For the RFP?---RFP?

Yes, the pricing range, as I've shown you, even though you've seen it for the first time today, was around 176 million for Accenture, a range of approximately 1.56 million to 190 million for IBM. Accenture's pricing, as you know, stayed in the order of 176, it actually went down slightly to 175, 900 and whatever. But IBM's pricing was finally able to be analysed by you, as I understand it, for around \$18 million, Is that correct?---Yes, if we're comparing 75 or 80, then I think we should compare 125, 130 of Accenture. Because I think the ITO evaluation document that was sent to me yesterday clearly says 75 point something and 125, so that's the apples to apples comparison. SO if you're talking about 75 from IBM or thereabouts, then the Accenture, from memory that I saw yesterday, was 125 not 176. If you're talking about full pricing, because 75 for IBM and 125 of Accenture were only the prices up to phase one. Phase 2A was absolutely guess work, and as were the other ones, if you add to the IBM and add to the Accenture that would lead to the numbers that you're talking about. So you can't compare the 176 of Accenture with 75 of IBM, because 176 of the Accenture is actually phase one and phase two. 175 of IBM is only phase one of the IBM.

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But they had to give best estimates for phase two, didn't they?---They did, and if you add that up - I don't know the figure, that would come to some to figure.

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All right. What I'm suggesting to you though is there is a marked difference in the indicative pricing of IBM for the request for proposal response and the pricing that IBM provided in relation to ITO. Do you agree with that?---As I said earlier, Mr Flanagan, I have no knowledge - - -

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No, do you agree with that or not?---I didn't even notice this while I was glancing through, honestly. I didn't even notice the price of Accenture so I don't know whether the difference was there or not.

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MR FLANAGAN: My direct question is this - - -?---Sure.

- - - did you participate with Mr Burns in direct conversations with IBM as to how they should structure their price - - -?---Absolutely not.

- - - in response to the ITO?---Absolutely not.

Thank you. Can you give any further explanation as to why IBM would be emailing you five days after the ITO? ---Absolutely no idea.

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No. To your knowledge, without you personally being present, have you any knowledge that you could impart to this commission of Mr Burns meeting with IBM representatives prior to the ITO issuing as to how they should structure their pricing?---As I said, I have no knowledge and I didn't know Mr Burns for the entire process before I started doing the drafting of the ITO work, (indistinct).

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Now could you just generally outline, having looked at the ITO, what role you played in both authoring the ITO and what role you played in authoring the selection criteria? ---So I thought I briefly explained that earlier, Mr Commissioner, but I'll go again. ITO - when I joined the ITO team they were in the process of drafting questions, contacting the agencies and the SSP, so I helped Mr Keith Goddard in clarifying the questions, in drafting the questions, in reviewing the ITO structure, imparting the knowledge that I brought in in terms of technical and implementation into betterment of creating the ITO. So that was the part I created during the ITO. Then the next question was what I played in terms - - -

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The selection process - - -?---Of section criteria, right, so again, as a team, once we are identified roughly who was going to be in the team the role that I played was to possibly draft the spreadsheets or, you know, provide meaningful input into the scoring, formulating, maybe creating the formulas, how you should be structuring the (indistinct) once the team agreed as to the team issue, 20 team issue 15 or whatever.

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Yes?---So that - you know it's a big part of that team process and actually participating in meaningful sort of value adding to that process.

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Had you ever participated in an ITO for a government tender before?---Not in Australia and not in the government section, but in the private sector.

That was in India, was it?---Yes, that was in India.

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Okay, thank you. Now, do you recall signing a conflict of interest declaration in relation to the ITO process?---For this ITO process, yes.

Yes. Can you recall what date you signed it?---Sorry, I can't recall the date. It's six years.

Quite. Can I just ask this then: do you have a recollection of signing a conflict of interest declaration before the ITO issued on 12 September 2007?---Yeah, just what I said; yeah.

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All right. You had no conflicts to declare?---No.

Now, do you ever recall Ms Blakeney expressing concerns to you as to the shortness of the response time to the ITO? ---No. We never had any discussion about - okay, let me just start - withdraw this and start again. I think the focus that I had in terms of providing inputs into ITO was mainly around the structure of the ITO, the questions of the ITO and the strategy of the ITO. The procurement dimensions or the time lines and the property was left to Ms Blakeney and Mr John Beeston so either one puts into (indistinct) - to answer your question directly there was no recollection of me or anyone having expressed concerns about this.

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Can I just take you then to the IBM price schedule which we'll find in the IBM response through the ITO? It's involving 14 and (indistinct). It's at page - it is the right volume, volume 14, page 291. Mr Commissioner, it's volume 15.

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COMMISSIONER: 15.

MR FLANAGAN: 616, please?---Page number?

616?---616?

Yes. Now, we know from the Accenture response to the ITO that a ticket price or a not to exceed price was given of approximately \$175 million?---The total, you mean?

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In total?---Phase one and phase two.

Correct?---Yeah.

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With this pricing schedule which follows the pricing schedule of the ITO which you have itemised it has a number of fixed prices, a number of items aren't costed, some items of course are best estimates as required by the ITO and some are based on certain assumptions. Did you ultimately, in your role of evaluating cost, come up with a ticket price or a final price for IBM's tender?---Okay, so let me try answer to this from my memory. I don't know what you mean by the ticket price, so could you please explain what is ticket price?

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We know - - -?---A price, you mean?

Their price, yes?---A price?

A price?---So it wasn't an "A" price, as you see in the ITO - as I explained to you earlier, Mr Flanagan. You see the evaluation report? It is up to phase one that we have \$75 million and 145 or thereabouts was for Accenture as one (indistinct). Then we have the phase two pricing as well. So if we add up these two - and I think there are spreadsheets - I don't recollect now, but there'll be spreadsheets that Colleen would have produced that would have summed it up and would have come with a ticket price, but what I understood of your question broadly and largely is that, "What is the process?" Is that your question as to - - -

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No I'm asking you, did you come up with, in your own mind, the ticket price for the IBM bid?---Ticket - a price?

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Yes?---No, none of the offerers said this was my price for Accenture to the best of my knowledge. Neither Accenture nor IBM said these are material prices.

No, can I suggest that Accenture actually did come up with a ticket price of approximately \$175 million but where they, in a schedule to their offer, reconciled that price with the price they offered - - -?---(Indistinct).

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- - - for the RFP?---Okay.

They did a reconciliation schedule?---Okay.

There's no such schedule in the IBM offer but I'm just asking you - - -?---No I haven't come across a ticket price by IBM.

But having gone through the exercise yourself can you tell us what the ticket price was?---I can't recollect to the price now.

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All right. Can I suggest that Accenture actually did come up with a ticket price of approximately 175 million for where they, in a schedule to their offer, reconciled that price with the price they offered - - -?---Yep. 1

- - - the price they had offered for the RFP?---Okay.

And they did a reconciliation schedule?---Okay.

There's no such schedule in the IBM offer but I'm just asking you - - -?---No, I haven't come across a ticket price for IBM. 10

Okay. But having gone through the exercise yourself, can you tell us what the ticket price was?---I can't recollect the total price, no. I would go to the Excel spreadsheet for IBM and look at the final number there.

Can I just take you to the Accenture volume, it's volume 18, page 656?---Yep. 20

And they identify RFO is the ITO price and the RFI price, which is the RFP price, and they reconcile the two - - -? ---Yeah, I can see that.

- - - but they do have, ultimately, a not to exceed price or a ticket price of 175 million. Yes?---Yeah, I can see that.

Now, I'm just asking you: having analysed IBM's pricing schedule and looked at best estimates and priced best estimates, because you actually did price the best estimate yourself, didn't you?---I didn't do it myself; Colleen was doing it, but (indistinct), yep. 30

Having done that exercise, can you tell me from your own knowledge what was the ticket price of IBM's bid?---Yep. And as I said earlier, Mr Commissioner, I don't recollect the ticket price for IBM. 40

Can you give the commissioner an estimate of it, surely? ---Honestly, I don't know, but if I remember I would have told you. If you can find out the spreadsheet, we can resolve it quickly.

Can you tell the commission how much lower it was in the tens of millions to Accenture's price?---If you're comparing 176 with the phase one and phase two put together of IBM - - - 50

Yes?--- - - - I can't tell you because I have no recollection, I'm sorry.

All right. Thank you. Even though you're one of three advisors to the various sub-teams in the evaluation, you

were also, as you've said, on the evaluation panel for cost, was price quarantined from the other sub-teams? ---Absolutely. 1

Until what stage?---All the way until these guys would have finished their evaluation and then we (indistinct) there was a session that we conducted as cost team, which, from memory, Colleen and I would have run. So all the way until the end of the evaluation. 10

All right. We know that IBM presented two cost presentations and Accenture presented one cost presentation?---Yes.

Did you attend those presentations?---Yes.

And were questions raised in relation to understanding the costings?---The questions - the presentations that you're referring to are the presentations were IBM and Accenture were asked to go through the costs matrix, it was not about their costing presentation, because we wanted to be absolutely sure that was the instruction from Barbara and Terry, we wanted to be absolutely sure of two things: that each item is priced and each item is priced only once, so we wanted to be excruciatingly clear that was the case and we wanted to make sure that is translated into both the offeror's understanding so that we could - also, there was a purpose for this document. We wanted to use this discuss, potentially, in contract negotiation or contract management. You know? So that was the purpose of this and the presentations, Mr Flanagan, you're talking about are the presentations where both the offerors had asked to come and present and reconfirm verbally, and walk through these assumptions. That was the sessions. It wasn't about pricing. There was some clarifications, of course, but it was about these two points. 20 30

All right. Can I just go back to the quarantine or quarantining of price; why was that done?---When was it? 40

No, why was it done?---Why was it done?

Yes?---Well, it is obviously in the - I mean, the teams were doing the costing and costing was not scored because you don't want to bias the other teams with the cost. You know?

Right. But you weren't quarantined as such because you were advisor to the other sub-teams?---Yes, but I was not part of the evaluation team of any other teams, so I have no inputs or influence into any of the other teams. I was only a coordinator. 50

What was the advisory part of that, because it's also called "advisory and coordination"?---Yeah. So the advice - - -

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So what's the advisory role that you had in relation to those sub-teams?--Only in hindsight, advisory was poor chosen, but the level of people that we had in the mix and the guys who are heading the team, I don't think Mr Darrin Bond needed advice from me or Mr Philip Hood needed any advice from me, you know? So I think it was probably a word used at that time, you know?

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Now, at paragraph 16 of your statement you say, in the last line, "I do remember that the two most important criteria for value for money and affordability within the constraints of what budget was available." Yes?---Yeah.

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How was the measure "value for money" determined by your team?---So I (indistinct) statement, nothing - I must clarify to the commission, Mr Commissioner, that it's probably not giving most ideal way I should have written in hindsight now. It should have been written - it is basically the value for money. I think the affordability is not the right way to present what I actually meant to say. Value for money was clearly laid out as criteria number C3 of one of the criterias. There was C1, C2, C3, C4, C5, and CC3, there were about four or five sub-items under C3. One of them was very clearly that have gone through yesterday, so I remember, it is (indistinct) other one was benefits. So you will see that was the strategy or thinking, at least, of the team, not just one individual, of the entire team, that is the way - sorry, value for money should be defined. And there were about five of them, there in the document anyway.

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Can I ask you this, then: in relation to the solution that IBM had and that Accenture had for the HR payroll legacies, such as the replacement of LATTICE at Queensland Health and DETA, what was the main difference between those two solutions?---Queensland Health and?

Sorry, LATTICE at Queensland Health and I think emergency services, wasn't it?---Yes.

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Yes?---I think, from memory, again Mr Darrin Bond is the right person to answer, from memory, and from (indistinct) background (indistinct) other things, the main difference was that Queensland Health had not only the complexity of the award but also the number of the awards, whereas QCS - or the corrective services then it was called - had no complexity with number of awards where, in terms of numbers, were not (indistinct) because of the nurses and doctors, and evaluations, it was a combination that existed at Queensland Health which didn't in QCS, and that was my recollection.

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All right. And was the innovation for the IBM solution that the awards would be linked to the rostering system, namely, Workbrain, rather than SAP?---Yeah, I heard this, commissioner, this (indistinct) innovation, but I must, if

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I may, explain this, that in my mind when we were doing it, most of the people were doing the evaluation as well. SSS program had already selected four best of breed products, which was Workbrain for rostering, SAP, Saba, and RecruitASP. So Workbrain for rostering was not a new solution; it was a given solution. 1

No, I'm not suggesting it is. I'm just saying - - -?  
---Yes, but I'm just - - - 10

We understand that?---Yes, I'm trying to make a point to - - -

The leaking of the awards to Workbrain and - - -?---Yeah, I was just coming to that, Mr Flanagan. That was given, so what is different sharing was IBM's proposal to take the rules part of it or the awards conditions part of it from SAP and put it into some sort of rule engine which existed in Workbrain, and that was the, if you call it innovation part, that was the innovation, as I understand. Sorry, it took longer than I thought. 20

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And in relation to that, to your own knowledge, did IBM ever satisfy you or the relevant evaluation team that, that solution was feasible or functional?---Again, this is an interesting thing because the evaluation team took a journey, there was a very creative process, you know, and there were several points, moments, that happened in the evaluation team. If I may take you through, that might help answer that question.

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Yes?---This is my recollection of the process anyway. So one of the things that happened was that IBM and Accenture proposals were given, they were very voluminous so people are going through that. We realised during the evaluation phase that IBM had come up with this innovation, as you said, of putting the award (indistinct) out of SAP and putting it into Workbrain. So there were a series of steps that followed that sort of evaluation panel, so we went through industry leaders, for example, like Gartner. I clearly remember Mr Phillip Hood had the access to the Gartner source, so we went through Gartner research and made a call to Gartner and found out (indistinct) because that's the industry leader. Then we had the process, Mr Commissioner, we had the fixed prices where we have what you all the "reference checks". So we called up the reference checks and I remember one, again, from Mr Hood's office, he made an early morning call and Mr Bond was present along with Mr Vayo and others. He made a call to a client in the US who were actually using very similar, maybe not the same complexity, but he made a call. Then there was another sort of (indistinct) defining moment that was happening, you know. The evaluation team, of course, was no very comfortable with this and they wanted to properly make the due diligence around that, so we urged for a presentation from both the vendors together not just IBM, but IBM's Workbrain guys as well. So there was a joint presentation, I have a very clearly memory of that which was arranged for the entire team, which was then attended by the head of Workbrain in Australia as well as a few of the IBM guys, including the guy, Paul Surprenant, and a couple of other guys. All of them came and there was a two and a half hour presentation, from memory, and they demonstrated how things were done, probably in Bunnings or some other client (indistinct) and following that, I think the team still had some concerns about - because we didn't get exact apple to apple match in terms of complexity and size, so we said, "We will need some benchmark." Because that's another thing that you look for in IT solutions, that you look for benchmarks. Benchmark is not just the marketing material, benchmark is a published thing which actually the companies stand for, it becomes part of the marketing material, so we look for the benchmark. At that point in time, I think for right reasons, teams still would have had some doubts and reservations but because of the time we thought we could possibly deal with this in terms of proof of concept or some sort of contractual vehicle through which we can mitigate some sort of a risk. So

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that's the process the team followed, and along the way, because people knew about it, teams were sitting better. Their understanding of the solution (indistinct) and at the same time there's something else that also happened along with that, and I must say that otherwise it'll go unnoticed. I have to, sort of, at least get it out of my system because that got found out from two teams together. I think I was watching Mr Mike Lewis yesterday being a witness, and he didn't mention about - I made a note in my dairy - an interesting question about best of breed that came through the governance team, and I think it's very important to understand that dimension of the best of breed in the context of the evaluation. The proposal, when we started evaluating Accenture and IBM together, we found that Accenture had given SAP centric proposal, right. And it is a brilliant solution, didn't have any biased, I presume. Anyway, I was not part of the team but the evaluation team would have passionately looked at that, but what we found was, in the pricing team, in fact the recruitment module - had two things, sorry, let me withdraw that. As per the ITO, if you go back to the ITO, I would like to take you to the ITO. Sorry, if we don't mind, because it's quite a key thing. Section 2.2 of the ITO, please. I don't need that. Yes, so I just have my notes, but I'll say in section 2.2 - - -

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What page are you on?---Section 2.2 of the ITO.

Yes, but what page is that?---Yes, so that's page 18. So just above section 2.3 there, there's a mention of the (indistinct) component of the HR solution "has been implemented in all agencies as at September 2007". So there's a key point here in terms of strategy that we had in the drafting of the ITO. We didn't want to change the solution mix from what was already implemented for two reasons, Mr Flanagan, because SSS program, or the CorpTech solution program, was dealing with about 25 or 26 government agencies, whereas government board, whole of government board, as it was called then, was used by not just those 26 agencies, it was used by all the other statutory bodies as well, like, for example, Crime and Misconduct Commission as well. So there are more than those 26 agencies that were actually under the SSS umbrella, so to say, actually impacted by the whole of government board which was powered through. Although, it was run by SSS but the impact was actually seen across the sector in other agencies, and that went live actually around, as you say, around September 2007 through the SSS solution. So it was very critical to maintain that solution mix, so if any offeror would come up with another solution which undermined that, which means that although recruitment is not a top priority, that would mean that it's changing course of the government fund, and also that is to costs and everything else. You know? The second point that we found out, that E recruitment module that was proposed was, from the best of my memory, again, it was

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not even licensed by CorpTech. Eventually, if that was an accepted solution, if they accepted offeror (indistinct) remember that was the time when we were just doing the evaluation. The costing understood that, that would be an extra component that would require to actually bring in the price parity. So because of that we had to go to and fro with the offeror, in this case, Accenture, to request them to bringing a price parity and tell them that, "You should not offer under the ITO anything other than the ITO." And they came back with a best estimate price for the other two products, which they were actually proposing to replace by a SAP centric solution. And that was right towards the end and that was then loaded as a best estimate price into the mix. There were a couple of these moments through which the evaluation team realised that the solution, as it met the eye, on the face of it, was actually there was more to it, you know. So people started gathering that understanding, people started changing their opinion.

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If we just follow on from that, having listened to some of the evidence you'd appreciate that at one stage during the evaluation process a number of the sub-teams, in their initial evaluation at least, and in the initial recommendation, had put Accenture first and IBM second. Were you aware that in your advisory, or you prefer coordinator role, that Accenture was leading the tender at least as at 15 October 2007?---Yes, this is under - sorry, if I may use this word, that needs to be clarified.

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No, actually, I'd appreciate if you could answer the question, then you can explain, if you wish?---Sorry, my apologies then.

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Yes?---Mr Commissioner, I think the process that we followed in the evaluation of tender was not one whereby we would collect these calls at some interim stages. Right? So the two weeks of time that we had for evaluation, Mr Flanagan, there was no process of saying, "Okay. Let's have stage 1, area 1, whatever you call it, what are the scores, let's have a look at it." Then there was another defining moment (indistinct) for argument's sake, saying, "Oh, by the way, how's it looking now?" You know? There's just all this, "How's it looking now?" There was - that was not the process, to the best of my knowledge, that was followed. The process that was followed was as follows: the process that was followed was that there was a room that was quarantined. Each team had their own table and their own ITO sheets given to them. They were given draft sheets, like blank sheets that I talked about earlier, and they would go through this process within their sub-teams iteratively (sic). Right? Individually might have found a couple of sheets lying loose or sort of stored, I don't know, but individually as - if I was member, for example, I have written a score of A, B or C against an offeror A or B, but that was just the process that I was going through as an evaluation team. As an example, if I want to arrive at the solution as I explained to you just before the (indistinct) process (indistinct) of presentations happening and (indistinct) of discovery being made about the two solutions, and that mentions of the solutions before anyone could conclude that this is leading or not. So to the best of my knowledge, I can give this evidence, Mr Commissioner, that was not the process that you come up with an interim score and say, "Oh, by the way, Accenture is leading now." You know? "By the way, IBM is leading now." It wasn't like a figurative score exercise. You know?

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Quite,. but at one stage you at least appreciated in your role that a number of the sub-teams had evaluated Accenture at a point in time as leading. Yes?---No, I don't recollect that at all, sorry.

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And I suggest by 15 October it was well known that Accenture was leading the bid?---No, that's incorrect, sorry, in my opinion.

And a number of witnesses have given evidence to this inquiry?---That's to their recollection. My recollection is that's not the case.

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Quite, but I'm going to ask you: do you have a recollection of Mr Burns calling together the sub-team leaders at a time when Accenture was leading the bid and encouraging them to rescore with a view to re-examining the

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criteria?---Two parts to this question (indistinct) there was no such meeting and I'm 100 per cent sure about that I'm aware of where any of the team leaders would have been told to reassess their scores; (2) Mr Commissioner, I wasn't a team leader; if there was any such meeting, and I have to be truthful, I am not aware of that, and third part I want to mention, Mr Commissioner, is that I explained to you that was not the process. If someone followed the process and whispered to some of their team that, "Look, by the way, my team, IBM is leading" or, "By the way, my team, Accenture is leading", that is purely a very casual call which should not have been done as per the probity advice. I mean, this process is against the probity, in my opinion. There was no process to come up with an interim score, to the best of my knowledge, so the whole notion of teams having interim scores and discussing that is not correct, in my opinion, and I never saw - by the way, there were five (indistinct) level people involved in doing this and (indistinct) level people, as I understood, from the (indistinct) it's a really, really responsible position, so you can't (indistinct) an (indistinct) level person to change the score. That's unheard, you know, and even if you (indistinct) and I won't ask that of anyone, there was a venue for them to go to Ms Barbara Perrott and the entire process no-one mentioned anything about any such thing. It is really a very loyal team working very, very well, and I think - I don't know how that impression is created but some of the team members, like, for example, Mr Bond there, was extremely highly regarded, you know, any of the solution problem we had, he would be the one who would go and teams will say, "Yeah, let's refer to" - and that is the whole purpose of hiring those (indistinct) level people. They're three weeks on and we are full-time, so - sorry, I'll stop now.

COMMISSIONER: I take it from that answer, Mr Shah, that you would have been affronted if such a thing had happened, if Mr Burns or someone else for that matter had called the team leaders together and said, "You should reassess your scoring"?---Absolutely, Mr Commissioner, yeah, and then what happened, this person in the corridor saying, "Oh, why is Mr X is doing that and what's the reason? Is there an inside story? Why are we preferring this?" There was absolutely no time. I was working 12 hours a day, Mr Commissioner.

I understand?---There was no time for this nonsense, sorry.

Yes, thank you. I understand. Your answer, I think, underscores the seriousness with which you would have regarded such a meeting?---No (indistinct)

No, I understand that, but the averments of your last answer to me I think underscores the seriousness with which you would have regarded such a - - -?---Oh, yeah, this is a

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damaging - it's against probity. Why would a team may have discussed the score of their team with team B. If some team claims here that they are discussing scores, that should have been pulled up for discussing it because unless you finalise - even though there's not a costing score, you shouldn't be biasing your team's score with someone else's team because the implementation team might get biased with the (indistinct) scores, saying, "Oh, by the way, Mr Vayo had this score," so I should maybe look at this, so the whole notion is against the spirit of the evaluation.

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MR FLANAGAN: And by the same token, you would have the same strong feelings if was being leaked during the evaluation process that one tenderer was ahead of the other tenderer?---Yeah, absolutely, and it's absolutely hypothetical because there's no way to relieve that and it wasn't even finalised. People would struggle because it's a complex formula. They all had their individual sheets, right, so how would they know that point 25 of a score which is three out of five, which carried a point 25 weightage and there was further weightage on C1 to C5, what would carry in the overall score? That is impossible. You need to be Einstein to know that, you know?

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Can I take you then to appendix D of the final evaluation report, which is the summary of financial issues, which you'll find in volume 22, page 23?---Sorry, which page?

COMMISSIONER: 23.

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MR FLANAGAN: Page 23?---Page 23, sorry, okay.

Did you play any role in drafting appendix D?---No.

Did you, as a member of the sub-team dealing with the cost, have any input into this document?---No, but those (indistinct) this document.

Pardon?---I recollect having seen this document.

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Yes, and you saw it at the time?---"At the time" meaning?

At the time of the evaluation?---No. I think, again, this needs to be clarified. This was after the evaluation was completed, before the final document was prepared, so my (indistinct) after the teams had finalised their scores and the original teams had finalised their scores and we, the cost teams would have calculated their cost to phase one and phase two. After that, this was a summary note that I presume from memory that we've gone somewhere up the chain. You know?

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All right. And you didn't have any part in drafting it or doing the analysis of - - -?---I don't recall but she might have asked some questions, but - - -

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So in terms of the final evaluation report did you draft any part of it quite apart from appendix D?---I didn't draft anything in appendix D either, as I said.

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No, quite apart from appendix D, where you said you didn't draft, did you play a role in drafting?---Sorry. No.

Do you know who did draft the final report?---To the best of my knowledge, each team were asked to provide their own submission about their own team part and then Maree Blakeney was collating that information into one consolidated account.

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All right. Now, can I take you then to paragraph 26 of your statement? You state, "In July 2008 I completed my temporary employment with CorpTech and commenced working for myself." What was the name of your company?---Yeah, so we were family trust. It's called Rainmaker Trust.

Right. Through Mr Burns' company, Cavendish Risk Management, did he obtain work for you by contract with Queensland Health in relation to the payroll - - -?---Yeah, that's written in my statement and I approached Mr Burns as I would have approached many other companies because after the prime contractor thing was done I didn't have any role to play as the role that I was playing - the positions that were supposed to have (indistinct), initially as DA at other places where I could have been there were pretty senior and I didn't have requisite experience with the Queensland government because I'm three years in the country, so hoping that I would get one of those positions, even though I probably deserved one, it was not - it was probably about dreaming so I had to do something for myself, so I approached Mr Burns and said, "Your company is a GITC company and the clients know us. The action is now moving from the agencies." So I contact to the agencies. So there are a couple of roles that - I found one at Queensland Health and education. They actually wanted to run a tender for (indistinct) health and safety. So, Mr Commissioner, education had a big push on workplace health and safety because of the children's safety. SSS had earlier - had workplace health and safety as part of the shared solution. You know how we have core sharing and agency specific later on? Because of funding that became agency specific, so the Education Department then requested me if I could run the tender for them on a part-time basis. So that was a natural sort of segue into me working from there and Terry's company was the GITC company and a vehicle - my company wasn't GITC so that was a vehicle to which I got the work.

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Without talking about specific figures - - -?---Yeah.

- - - what was the split between you and Mr Burns in terms of your sub-contract?---I didn't have a split arrangement,

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as I put in my statement, like I would have done with any normal contract, with any other company. I would submit my time sheets to his company at the rate that I would charge him and his company would obviously mark up and submit it to you as a client.

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All right?---That is it.

Do you know what his mark-up to Queensland Health for your services were for the payroll placement?---Yeah, isn't that confidential for this company? I can - I know the figure, but is not something that - - -

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COMMISSIONER: It's relative for me to know - - -?---Yeah, sure. No, I'm happy to. So it was about \$200 per day.

MR FLANAGAN: No, I don't need to know figures; I just need to know the percentage of mark-up?---Probably about 15 per cent or something like that.

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15 per cent?---15 per cent. I can't count with the maths so quickly but yeah, around that.

Who in Queensland Health - because Mr Burns was also working with you at Queensland Health?---Yes he was.'

From what time were you and Mr Burns working at Queensland Health?---I know when I was working - I don't have recollection of when he was working, started working. That was when I started.

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Was he already there when you came on board?---I think so.

All right. Now, can you tell us who brought Mr Burns on board at Queensland Health?---I have no idea.

Do you know, apart from Mr Burns, who brought you on board at Queensland Health?---As I said earlier, though my association in CorpTech and the IGO I have a number of interactions with the agencies so all these agencies people, senior executives. They all knew me and they all knew my strengths and weaknesses. I was interviewed and this - my assignment was discussed with Tony Price, who was then the director of QHEST.

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Thank you. Mr Burns left CorpTech sometime in 2008 and then undertook his consultancy role with QHEST. Are you able to tell us when he actually did leave CorpTech?---I have no recollection.

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You have no recollection. All right, thank you. That's the evidence-in-chief of Mr Shah.

COMMISSIONER: Thank you. Mr MacSporran?

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MR MACSPORRAN: Thank you Commissioner.

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Mr Shah, can I take you to your statement? Do you have that with you still?---Sorry, yeah I have. Yeah, here.

Can I take you to paragraph 6? You see you give a bit of a history of your involvement with the program prior to meeting with CorpTech?---Yeah.

You're talking about, in the middle of that paragraph, in relation to some difficulties with the SSS programs. You see that?---Yeah.

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Now, can I ask you just to give us some indication what you mean by that and can I ask you to do it, if you wouldn't mind, briefly?---Yeah, thank you. Okay, so - - -

I know it's a big ask, but do your best?---Yeah, so I think the SSS program, as I said earlier, was very briefly struggling with two main things, (a) the scope of the (indistinct) not finalised, and (b) incredibly (indistinct) program was severely hampered and agencies had lost faith in the ability of SSS to deliver anything. Also there's bigger agencies like Queensland Transport and Main Road, Queensland Health and Education who actually wanted to go of their own so it was probably - there was something that had to be done to change the way we're doing things, otherwise it was a disaster in happening.

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All right, so there were concerns, there was clearly concerns, about delay in costs?---Yeah.

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Did those concerns increase over time?---Yes, as the time progressed there was a thing called a schedule line and (indistinct) as a coalface to the organiser - of the organisation as implementation project manager as to go and talk to these six agencies. The dialogue would be a non-starter<sup>5</sup> because they would say, "Oh, where am I in the schedule line?", you know? So it was a schedule line that almost become a joke.

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Was the life of the LATTICE system (indistinct) of yours - - -?---Yes, yeah, thank you. So LATTICE and TSS was another big, big problem because LATTICE was coming out of the support and TSS, which was used by education, was also getting out of the support so that is big trouble as well.

Right, thank you. Can I take you then to paragraph 20 of your statement? You've been asked some questions about you went about establishing a price from the IBM response to the ITO. Do you recall that?---Yeah.

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You say here in the first sentence about taking the IBM's costings at face value. What do you mean by that?---Yes, well, I think this is in context with the questions,

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Mr Commissioner, that was asked to me when I first met the counsellors, that there was a huge difference - what was the difference between the IBM and the Accenture pricing? So I did respond saying that it was roughly about 70 and 100 plus. So then there was a question asked that, "Do you think that IBM had underquoted the price in order to win the contract?" This is in response to that question that was asked to me, and I said that for a company like IBM - there are two things there, Mr Commissioner, that for a company like IBM and Accenture, whatever the case may be, you expect them to be truthful and upfront about what they're doing, (a), and (b) the government procurement process before it did not allow for any further pricing negotiation during the ITO process, so we had no choice but to take that value at face value. That's what I meant by that.

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All right, but as you've told us, I think, you did carry out as part of your role of the costing sub-team - - -? ---Yes.

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- - - an analysis of the costings of both IBM and Accenture to see if you could compare like with like?---Yes, and we did do due diligence extensively here.

Can I take you to volume 22, please, page 9?---Volume 22?

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Volume 22, page 9?---Page 9. Yes.

You mentioned as part of your evidence about the costings of phase one and comparing IBM and Accenture. You'll see at page 9 there, at heading 4.4, Cost Benefit Analysis? ---Yes, that's right.

Does that refresh your memory about the direct comparison for phase one between the two tenderers?---Yes, that's what exactly I meant.

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And then if you can go to, as well, in that same volume, page 22, it's appendix C, I think. Do you have that? ---Yes.

And you see the figures there are set out in comparing the costings from all of the tenderers, actually. But you see there the figures for phases one and two - - -?---Yes.

- - - are totalled up? Now, those figures came from the responses provided by the (indistinct)?---Yes, I believe so.

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Were they direct transpositions, or was there analysis and the figures were added to or subtracted from to provide these figures in appendix C?---Not to the best of my knowledge.

They're just a straight transposition - - -?---Yes.

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- - - from the responses into the table, are they?---Yes.

All right.

COMMISSIONER: Except that didn't Mr Doyle draw their attention that the \$29.3 million for Accenture for item 1E seems to be a mistake?

MR DOYLE: Yes.

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COMMISSIONER: So a mistake by, what, 3 or 4 million dollars?

MR MACSPORRAN: I think it was 24 to 32 or something like that?---I think it was about \$4 million, and I can explain what it was, if you want.

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If you could it would - - -?---Absolutely, yes. So, Mr Commissioner, I explained to you about the best of breed problem that we had when we were evaluating the pricing, and we found that the (indistinct) was actually the one that was rolled out to all the agencies and Accenture had actually proposed E recruitment from SAP as a solution, right. So we had to bring the price parity because we were not comparing apples to apples.

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COMMISSIONER: If I've understood your evidence correctly, that should have resulted in a reduction in the Accenture price, because they put things into 1E that the ITO didn't call for. See, it took those out, you'd reduce the price not increase it?---No, so I'm coming to that, Mr Commissioner.

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All right?---So what happened there was that we found that the recruitment in SAP were not included in the IBM pricing, so we went back to Accenture and sought clarification, and we said, "If have to follow the mix that we asked you to follow in the ITO, what would be your price?" Two prices in mind, I said, "Come back with a price and put it in the 1E category," because that was the priority code (indistinct) right.

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That was?---That was, 1E was.

Yes?---Yes, so that's why when they came back I clearly remember that Accenture came back saying, "If you insist, we change the thing from what we proposed to the solution that the whole of government has already got going." You actually had to add some (indistinct) exact figures, but that summed up to the figure that was then later on added to 1E.

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Mr Shah, was that communication in writing?---Yes, that was communication in writing from Accenture to us, through trying (indistinct) clarifications, I'm sure.

MR MACSPORRAN: That's your memory anyway?---It is from memory, yes.

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You remember seeing a document from Accenture?---Yes, it was a document. Yes.

Can I take you to page 8, finally, at volume 22?---Same volume?

Yes, same volume, page 8. You were asked some questions in respect of paragraph 16 of your statement in terms of the value for money being an important criteria in the process? ---Yes.

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And you went on to talk about the subcategories of that criteria. Are they the ones listed there under page 8, under C3: value for money?---Exactly, yes.

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And were those, to your knowledge, taken into account in assessing whether the tenders were valued?---Yes, except that where it should read as read.

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Yes, we understand that. All right, thank you.

COMMISSIONER: Thank you. Mr Doyle?

MR DOYLE: Thanks, Mr Commissioner. Excuse me.

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Mr Shah, I'd ask that you be shown volume 18, you may still have it with you. Please go, if you would, to page 664? ---Yes.

You have here an extract or page from the Accenture response to the ITO?---Yes.

You'll recall that, from the course of your evidence, you gave an explanation for some of the items which were required to be best estimates in the ITO having been included in the Accenture fixed price components for other items, if that's the right way of putting it?---No, the other way around, Mr Doyle.

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All right. Well, that's the - - -?---Some of the items which required a fixed price in priority 1E are included in the best estimate under 1G or 1H.

Very good. Now, is that proposition, if you like, something which appears from the words under the heading Price Exclusion on this part of the schedule? At the top of the page you'll see - if you turn it sideways?---Yes, exactly. Yes, that's the one.

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So they were telling you that's what they've done?---Yes, "We propose HR awards will be configured as part of each release, and the price of this is including that in 1G and 2A."

Very good. Now, you've told us that you went back, or someone went back, and asked them to reverse that or give you some more information about that, and I don't want to go to that. Just looking at this document, that is, the ITO response, if you would, just the ITO response from Accenture, are you able to tell the commissioner what, if any, allowance is to be made for HR awards with respect to item 1E: priority core development?---For Accenture?

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For Accenture, sorry, yes?---We took 4.4 at a face value and we included 4.4, from the best of my memory.

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Where does that come from?---That came - as I said earlier, we actually asked the question, sort of clarification, and Accenture responded in writing saying, "You should consider this price to be included as the price for the works."

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You've probably answered my question. Is it the case, then, you can't in fact tell by looking at the initial ITO response what the allowance should be?---Yes.

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But you sought some further clarification?---Yes, we sought clarification.

COMMISSIONER: The allowance for what?

MR DOYLE: Sorry?

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COMMISSIONER: The allowance for what?

MR DOYLE: The HR awards component of the 1E: priority core development component.

COMMISSIONER: We looked at a document this morning, I can't now remember in which volume, but it seemed to say the opposite of this. They may conflict, I don't know. They seemed to say that some of the costings for phase two were included in the 1E costing, which would have the effect surely of boosting those, and I can't remember what document it was.

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MR DOYLE: I'll let Mr Shah correct me if I go wrong, but there were a couple of things that were being talked about here. One of them is: in order to compare the IBM tender with the Accenture tender, you had to work out what the HR awards component of item 1E was, so you had to in fact get them to tell you a figure so you can compare apples with apples. Is that right?---That's right.

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And that was done by asking them for a figure?---Yes, so that resulted in reduction of the - - -

It doesn't matter, that'll do for now?---Okay.

But there's a second concern that I thought you'd said, and that is by the way in which they'd done it by including it in 1G, 1H and 2A components. I think you put it in terms they were trying to force you to go onto phase two?---And that's my inference.

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But don't worry, that's what you meant by that - - -?  
---Yes.

- - - because they'd wrapped part of the phase one work in components which were in phase two?---Yes, in other words, Mr Commissioner, if you were to achieve the objectives of having those objects on the shelf you had to go through the implementations and then those objects would come out, as opposed to the notion and the idea which demanded (indistinct) and those things could be created.

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COMMISSIONER: I understand the concept. I do understand the concept. It's just that I thought we had conducted this morning - - - 1

MR FLANAGAN: Yes, I haven't tendered it, so I'll tender it now, if I may. That's the document you're looking for.

COMMISSIONER: That's the one I have here on my desk.

MR FLANAGAN: I should formally tender it so we know what we're talking about; it's page 5 of that document. 10

COMMISSIONER: So it's not actually in the bundle?

MR FLANAGAN: No.

COMMISSIONER: Very well. The - what do I call this, the Accenture pricing schedule?

MR DOYLE: It's part of the cost break up matrix. 20

COMMISSIONER: Cost?

MR DOYLE: Cost break up matrix, the bottom left-hand corner.

COMMISSIONER: Oh, yes, thank you. The Accenture cost break up matrix will be exhibit 19.

ADMITTED AND MARKED: "EXHIBIT 19" 30

COMMISSIONER: Mr Shah, have you still got a copy of that? ---Yep.

That's the thing I was thinking of. That seems to say, doesn't it, on - in fact, you drew our attention to page 5 and page 6, the HR award for Health, QCS, DES and DETA, go into item 1E?---Yeah.

From somewhere else. Is that right?---Yeah. So from 1G and 1H into 1E. 40

All right. So why doesn't that have the effect of boosting the cost of 1E? So if you take them out and put them back where they'd belong, it would reduce the cost for 1E?---No. If you take it out - Mr Commissioner, if I understood you correctly, if you take it out from 1G and 1H, you've got to then put it into 1E - - -

Yes?--- - - - which means 1E costs will go up. 50

Yes?---Right? That's what happened.

Yes. And 1G and 1H would come down.



Yes. That's what I thought but Mr Doyle's pointing to you and you're agreeing the opposite. 1

MR DOYLE: No?---No.

I'm putting it very badly if that's the case. Can I start again?

COMMISSIONER: Yes.

MR DOYLE: And you tell me if I get it wrong. There are really two things that these documents are relevant to. The ITO asked or required people to quote against or to give figures of various kinds against items 1A through to F, which is phase one, is it? Right?---It is (indistinct).

And then 1G and so on?---1G and 1H.

Right?---And also part of phase one, best estimate.

The best estimate prices, thank you. And when one looks at the Accenture response to item 1E as first submitted to you - - -?---Yep.

- - - they gave you a fixed price for something called finance?---Yep.

And a fixed price for something called HR standard functionality, but no price for HR awards - - -?---Yes.

- - - because they said allowance for that has been included in items 1G, 1H and 2A?---Exactly right.

Now, the first aspect of that, which has got nothing to do with dollars for the moment, is that wasn't complying with the sentiment of permitting you to do phase one and then decide whether to go on with phase two - - -?

---That's - - -

- - - but rather, in a sense, requiring you to do both at once - - -?---Yep, that's right.

- - - by mixing the costings between those two phases?---So in other words (indistinct) it was forcing him from 1E to 1F, all the way down from 1A to 1H.

Correct. So that's the - the tender was not one which complied with the sentiment, if you like - - -?---Yeah.

- - - that you intended, and - - -?---1G, sorry, 1G.

I understand. And in other words, to do what they were doing, to do 1E, you'd also have to do 1 - - -?---1G.

- - - G, H and 2A?---Yeah, that's right. Yeah.

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Now, in order to comply like with like, you had to seek to derive a figure - - -?---Yep. 1

- - - for the - sorry, before I come to that, you raised that issue with them - - -?---Yep.

- - - that is issue of the mixing of the two streams, the phase one and phase two?---Yep.

And exhibit 19 is their response to you saying they'll accept the demixing, if I can put it that way?---Yeah. 10  
This is the (indistinct) exercise, but there are some correspondences and I don't have any copies of that, but there are some questions that Maree would have asked through us, saying that, "Look, your price does not include awards. Can you please itemise it?" And that was the response, yep.

Very good. That's the demixing component. Now, to compare, then, their price with the IBM price and the Logica price, if you had to do that, you had to come up with a figure for 1E HR awards, and I've asked you whether just by looking at the original ITO response from Accenture, couldn't you find that figure, and you've told me you can't?---No, it was not there, so you can't, and you don't want to - we didn't want to make assumptions. 20

So you asked them for some information?---Yeah.

And they provided it?---Yep. 30

And the figure - I'll show you another document, if I may. Volume 20, please. Would you turn to page 605?---Yep.

And you'll see - you're familiar with this kind of sheet, I take it, Mr Shah?---Yeah, I have a recollection - I've got a very bad copy of it yesterday, scanned copy.

Oh, well, this is a better one. The entry I want to direct your attention to is the one in the top series of boxes? ---Yeah. 40

And you'll see there is now a figure of, which I won't read out, but a figure for HR awards?---Yeah.

And some explanation which accompanies that?---Yeah, yeah.

And that's the figure that you're ultimately told from Accenture was to be - - -?---That's right. 50

Now, to help his Honour, I think, would the effect be that whatever may have been in the Accenture tender for items 1G, 1H and 2A, assuming everything else remains constant, would have been reduced by this figure?---One would assume that.

And so it goes - it moves from a lower phase two component up to the 1E component?---Yep. 1

All right. Thank you.

COMMISSIONER: Mr Doyle, I must be very dense indeed. If you take that figure out and put it back into 1G, 1H and 2A, why don't you reduce the total?

MR DOYLE: You do, but that's - your Honour's - it's the question, you've put it exactly the wrong way around. It is in 1G, 1H and 2A to start with and you've had - the evidence is it is has to be - and 1G, 1H and 2A deal with other things as well. 10

COMMISSIONER: Mm.

MR DOYLE: Take that out of those figures and put it up into 1E. So it increases the 1E component, it reduces the 1G, 1H and 2A component, and assuming there's no other consequential impact, the total shouldn't change, but the total for 1E increases. 20

COMMISSIONER: Right.

MR DOYLE: And that's the effect of the schedule in volume 2.

COMMISSIONER: It leaves, though, unexplained - I understand that, thank you. That leaves unexplained the difference you did point out between the figure that appears at page 605 of volume 20 and the figure that appears in appendix C to the - - - 30

MR DOYLE: It does. It's not, I can tell you, unique; there are other disparities affecting both Accenture and IBM.

And, Mr Commissioner, I can tell you that I would appreciate a short adjournment because a document was raised concerning how some email addresses may have been secured where I have material, which we think answers that and I'd like to look at it. 40

COMMISSIONER: Yes, very well. You heard one of the witness plans this morning, but - - -

MR FLANAGAN: Yes (indistinct)

COMMISSIONER: Perhaps - will he be best put off until Monday? 50

MR FLANAGAN: We can arrange that, yes, Mr Commissioner.

COMMISSIONER: All right. How long do you want, Mr Doyle?

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MR DOYLE: 15 minutes, if that's all right.

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COMMISSIONER: Yes, all right. Well, if you let my associate know, she'll let me know. I'll come down when you're ready.

MR DOYLE: Thank you.

THE COMMISSION ADJOURNED AT 11.59 AM

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COMMISSIONER: Mr Doyle?

MR DOYLE: Thank you, commissioner. Before we rose, I was asking you about some information that was sought from Accenture and provided which, in this case, assisted the costs team in its evaluation of the price which had been provided by Accenture, but you know, don't you, that the process was broader than that, that any team member from any team who wanted information could by following processes that were required and ask for information, and the tenderers would provide it or not, as the case may be. Yes?---Yeah.

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And that information - the system was such that information would make its way to such team members or sub-teams as may be relevant?---Yes. If we go - the process was to go through to procurement first and go to the offeror.

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Yes. So there was a channel through which - - -?---Yep.

- - - requests had been made and responses were provided? ---Yep.

And having been provided, they would be disseminated to the relevant team members - - -?---That's right.

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- - - for their continued review of the ITO responses. Would that be right? And you know that to be so with respect to your own costs team?---Yeah.

Good. Now, I'd ask you to be shown again the - sorry, the Accenture ITO responses in volume 18, which you may still have. Turn to page 656. You were shown this earlier today?---Yep.

And you've obviously seen it some years ago?---Yep, correct.

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And it contains a comparison between some information Accenture had earlier provided, which it refers to as its response to the RFI. Do you see that? Comparing with its response to what it here calls the RFO, which is obviously the ITO?---ITO.

Did the ITO document itself require that form of reconciliation to be undertaken?---Not to the best of my knowledge.

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Okay. Now, I notice that both versions, that is both the RFI response and the ITO response identified by Accenture have phases which are different from the phase one and two

descriptions used in the ITO. Do you see that?---Yes, I can see that, yep. 1

Was part of the process you undertook to try to work out how - what Accenture described as its various phases were to be compared with what the ITO described as its steps or its phases?---I don't know whether anyone else did, but our recollection that we didn't - I didn't do it.

You didn't do it. Okay. Well, you didn't, that's fine. 10  
In the course of an answer you gave to Mr Flanagan before, you referred to the fact that Accenture provided what it called, amongst other things, a not to exceed price, and that was, you've said, not something that was asked for in the ITO. In the course of that, you referred to the prices which were expressed by Accenture as having been based upon assumptions or qualified in some way. Do you recall giving that answer?---Yes, the qualification.

Well, I'll just show you volume 17, if I may, which is still part of the Accenture response to the ITO?---Yep. 20

And I want you - would you be able to easily define the assumptions to which you were referring or would it help you if I pointed you some examples?---No, I won't be able to recall if it's after six years.

Right. You haven't looked at it - - -?---No.

- - - for the last six years. Okay. Turn to page 359? ---Yep. 30

You'll see you have the response to an item number 15 or a question 15, it doesn't matter, "With reference to the scope defined in the statement of works, describe what assumptions you have made regarding scope." And there follows, does there, two pages of various assumptions? ---Yep.

And take your time to look at it, Mr Shah, but do a number of them identify that the effect of the assumption, if departed from, will be to increase cost?---Yeah. And this is the sort of thing I was mentioning. 40

Right. Can we just start with the first one. In keeping with the principle of developing a standard offering that is implemented across whole of government estimates, assume that the majority of currently configured business processes in SAP would be implemented in future roll-outs with minimal changes. I take it you read that at the time, back in 2007?---Yep, I see that. Yep. 50

Yes. And the assumption impact is identified as additional development effort cost beyond estimated RICEFs and configuration. Do you know what a RICEF is?---Yep, I know.

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Is this the kind of assumption that you had in mind when you were answering my learned friend's question earlier?  
---Yeah, I don't have a recollection of exactly this one but this is the kind of thing, yeah.

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Very good.

COMMISSIONER: It's clear, is it, Mr Doyle, that it's referring to the not to exceed price, not the fixed price.

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MR DOYLE: Well, I'll ask the witness if it's clear. Did you understand the assumptions to relate to those things which were the subject of fixed price - - -?---Yeah, because - - -

- - - offers?--- - - - Mr Commissioner, this is talking about statement of work.

COMMISSIONER: Yes, I saw that, that's why I asked the question?---So there are two categories, the statement of work and statement of score.

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Yes, I know. This is referring, is it, to the fixed price, statement of work fixed price, or is it referring to the items which required a best estimate and which you got not to exceed price?---It appears, Mr Commissioner, that - - -

Well, can't you tell from looking at the document?---Yes. I need to understand the context but apparently - it appears to me in this document now that the prices might change, go up if the scope has changed. So if you ask for more RICEFs, which is more important to phases (indistinct) you would be up for more cost.

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Yes, I understand that?---If you assumed that whatever is currently principle of the standard offer (indistinct) costs whole of government, this estimate assume that the majority of this is already done and we understand - we very well know that is not the case because we were actually asking the offerors to go into a forward planning exercise to precisely fix that item.

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MR DOYLE: I'll approach it slightly different, if I may.

COMMISSIONER: Yes.

MR DOYLE: Do you still have the ITO itself with you?

COMMISSIONER: Does it matter much? Mr Salouk accepted that the not to exceed price, in fact, could in some occasions, in some circumstances, be exceeded.

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MR DOYLE: Yes.

COMMISSIONER: Is that controversial?

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MR DOYLE: No. It is controversial that it's only the not to exceed price. 1

COMMISSIONER: Well, but Mr Salouk explained that it doesn't mean what it says.

MR DOYLE: Sorry, your Honour, I didn't hear that.

COMMISSIONER: Mr Salouk explained that despite being called a not to exceed price, there were circumstances in which the price would exceed the figure given. 10

MR DOYLE: That's true. We accept that, but ultimately we would construe the Accenture document as identifying even the fixed price to be that which is subject to various assumptions.

COMMISSIONER: What, that may be right, that's why I asked the question. 20

MR DOYLE: Oh, well, it's probably a matter that I can deal with by looking at the documents rather than asking this witness about it.

COMMISSIONER: That's why I asked whether item 15 is dealing with the fixed price or the not to exceed price.

MR DOYLE: I could offer - - -

COMMISSIONER: Mr Shah can't tell us, I think. 30

MR DOYLE: Well, I'm going to ask him and see how we go. I'll ask one more topic, if I may. Do you have the ITO with you? It's in volume 12. Would you turn to page 17?

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COMMISSIONER: What page?

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MR DOYLE: 17. Do you have a section headed Part D: Statement of Work?---Yes.

And what follows, in fact, describe the whole of the work which is the subject of the ITO, both phase one and phase two and all components of phase one and phase two? ---Yes, that's my understanding of it.

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Thank you. The rest I'll leave to take over to the documents that are relevant. Thank you. Can you go back to volume 17, please, this is still to the Accenture response, and now turn to page 363?---Yes.

You'll see a heading called Priority Core Development, and you'll see in the fourth paragraph of it where Accenture recommended the replacement of Saba and recruitment functionality in SAP. Do you see that?---Yes, I see that.

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I think you may have touched on this before, but was it the case that Accenture proposed to use Saba for recruitment and training rather than the existing systems which were in place? I'm sorry, I put that wrongly. Accenture proposed to use SAP for recruitment and training rather than the existing systems, yes?---Yes.

And in the course of your evidence earlier, you took us to a reference in the ITO to certain things have already been rolled out and had gone live in various departments in September 07?---Yes.

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So was Accenture proposing to replace those with SAP? ---Yes.

Was that their innovation, if you like, something that they were going to do that was different?---I wouldn't call it "innovation", but, yes, that was their proposal, yes.

Okay. To someone who has read the various documents, is it this paragraph which identifies that's what they propose to do?---Yes, I don't recollect this paragraph specifically, but, yes.

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All right. Nevermind. Thank you. Now, could I ask that Mr Shah be shown this bundle of emails, please? And one for the commissioner.

COMMISSIONER: Mr Flanagan, have you seen these?

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MR FLANAGAN: I have, thank you.

MR DOYLE: You'll recall that you were asked some questions about how Mr Surprenant from IBM may have got your email address?---Yes.

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I'm not going to suggest to you, Mr Shah, that the documents I'm about to show you are in fact the means by which you got it, but I want to show you that he had it before the commencement of the ITO process, okay. Now, you should have, on the first page, an email from him to someone called Dianne, that's Dianne McMillian. Do you see that, on 23 August, where he says, "Would you please consider this a formal request for information?" and that's raised the subject matter of matters. If you turn across a few pages, about five pages, six pages I think, you should have an email from you to Mr Surprenant. Do you have that? ---(indistinct).

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Yes, it is. It's dated 24 August?---Yes.

It says, "Hello Paul, as per your formal request for information, enclosed are those," and then, "Please mark all requests to myself, Trish and Dianne in future." Do you see that?---Yes.

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Then if you keep going, on the next page you'll see he responds saying, "Received with thanks, I'll be sure to work with you going forward"?---Yes.

If you turn to the next page, there's an email later that same day from you to Mr Bloomfield setting up a meeting? ---Yes.

Do you see that? And then the next page Mr Bloomfield copies in, and perhaps you can't see that on your computer because it might have been a blind copy, but it copies in Mr Surprenant and others in responding to you. And then the next page is an email from you to Mr Bloomfield setting up that meeting, and I'll tell you or remind you, Mr Shah, that meeting in fact was cancelled because - I don't think I need to take you to it. But in volume 28, Mr Commissioner, at page 701, there's an email from Mr Burns to, amongst others, Mr Bloomfield saying, "We've been advised today by our legal advisors that we're already in a de facto RFO process, and for that reason we should not be engaging in discussions with vendors. This is a reversal or previous advice, we are therefore advised to cancel the meeting."

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COMMISSIONER: That's the exchange that followed Ms Blakeney's concern, is it?

MR DOYLE: Yes, but, look, I can't say that I know that as a fact but it seems to correspond with the time. Having just looked at those, it's plain, isn't it?---Yes, no, I already explained that in answer to Mr Flanagan. So I think the process was that, as I said before, I believe Trish Praven was running the RFI process. So when I joined in August, at this point in time when I joined (indistinct) the work we were doing was to collect. I haven't seen this

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document (indistinct) all the offerors not just this IBM were actually requesting information as part of the RFI process (indistinct) and maintaining some sort of directory, RFI documents. And as part of that, because we were actually not formally into the

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ITO process, we would have, either me or Trish, would have actually sent these emails because that's how we write.

In fact, you told him that to communicate with you and two others?---Yes, that's right. So Trish (indistinct) and myself, yes.

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All right. Would you go please, now, to volume 29, page 736? You were shown earlier today the email which Mr Surprenant sent you asking for information, and then you'll see Maree Blakeney sending him an email telling him to direct all correspondence to her, and that's precisely what you'd expect to happen?---Yes, so I think what I can infer from this is that before ITO was formally started there were some exchanges with me and the guys and the vendor, others as well. And once it was a formal process, Mr Commissioner, Maree rightly said, "Look, stop writing to people individually, you should go through me," and that's what I can infer from that.

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Very good. I think only one more topic, Mr Shah?---Sure.

The process, as I understand it, that the cost team undertook was to take the figures from the - I'll ignore Logica for these purposes - to take the figures from the IBM response and the Accenture response to transpose them onto a spreadsheet, a page of which I showed you earlier today?---Yes.

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And it wasn't able in every case, you were not able in every case, to merely transpose figures, there was some requirement to find out more information or to adjust the figures to desegregate figures that have been given into various different components in order to see that you were putting all of the IBM item 1A figures and comparing them with all of the Accenture item 1A figures and so on?---Yes.

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But allowing for - and, sorry, in order to do the latter, that is to make the adjustments, might be necessary, you may have to ask for more information from them. Is that right?---Yep. 1

You may have to ask for some explain from other members of the evaluation team. Would that be right?---Yep.

But that the objective was to really identify the corresponding headline figures, the totals for item 1A, and we saw it's broken up only into three items. Is that right?---Yeah. Objective is two-fold that normally the item 1A level things are matching for us, so the details that we saw in the cost break up that we had all the clarifications clarified, yeah. 10

To make sure that you knew either they were or were not - - -?---Yeah.

- - - going to do something - - -?---Yep. 20

- - - but you had to know clearly what they were going to do. But that process was in order to identify aggregate figures for groups of work?---As an outcome, yeah.

Yes. Just excuse me now. Do you have your statement with you?---Yes.

Thank you. go to paragraph 5?---Yep. 30

You say with respect to the roll-out of the SAP program into Housing, there was some performance issues?---Yep.

And you say you can't give specifics. What is it that you became aware of?---I'm sorry?

Whilst you can't give specifics, what is it that you're referring to there?---Yes, I mean, I didn't remember the specific time lines and stuff like that but I know very sure, Mr Commissioner, that for the size of the organisation, like Housing, which are only thousand-odd employees from memory and the number of awards that were corroborated to 10, and that were very simple awards, the SAP batch run used to take extraordinary time, which is unusual time, like a half a day times, you know, so that was (indistinct). 40

Right. So just so we're clear, Housing had been rolled out using SAP for the awards?---You're asking the non-rostering agency, so they are to use SAP. 50

Very good. Thank you. I have nothing further. Thank you.

COMMISSIONER: Mr Flanagan?

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MR FLANAGAN: May I tender those emails referred to by Mr Doyle? 1

COMMISSIONER: Yes. The bundle of emails between Mr Shah and others will be exhibit 20.

ADMITTED AND MARKED: "EXHIBIT 20"

MR FLANAGAN: May Mr Shah be excused, Mr Commissioner? 10

COMMISSIONER: Yes. Mr Shah, thank you for your assistance. You are free to go?---Thank you very much.

WITNESS WITHDREW

MR FLANAGAN: Adjourn until 10 o'clock on Monday, Mr Commissioner?

COMMISSIONER: Yes, we'll do that, certainly. All right. We'll resume on Monday at 10 am. 20

THE COMMISSION ADJOURNED AT 12.43 PM UNTIL MONDAY, 18 MARCH 2013

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