

### **Auditing For The Australian Capital Territory**

The Auditor-General is head of the Auditor-General's Office. He and his Office act independently of the Government. The Office assists the Auditor-General to carry out his duties, which are set out in the Audit Act 1989, by undertaking audits of management performance and the financial statements of public sector bodies. The aim is to improve public sector management and accountability by firstly, ensuring the Legislative Assembly and the electorate are provided with accurate and useful information about the management of public sector resources and secondly, by providing independent advice and recommendations for improving the management of public resources.

PA72  
PA73

20 September 1995

The Speaker  
Australian Capital Territory  
Legislative Assembly  
CANBERRA ACT 2600

Dear Mr Speaker

In accordance with the Authority contained in the Audit Act 1989, I transmit to the Legislative Assembly two reports on activities of the Australian Capital Territory Government Services. The audits were:

- 'Contract for Collection of Domestic Garbage' conducted with the assistance of the firm Deloitte Touche Tohmatsu; and
- 'Non-Salary Entitlements of Senior Government Officers' conducted by Mr Ross Burton of my Office.

Yours sincerely

John A. Parkinson

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***CONTENT OF THIS REPORT***

This report contains reports on the outcomes of two performance audits recently completed by the Auditor-General's Office.

The audits are placed in Sections in this report in the following sequence:

**Contract for Collection of Domestic Garbage**

**Non-Salary Entitlements of Senior Government Officers**

**CONTRACT FOR COLLECTION OF  
DOMESTIC GARBAGE**

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## **CHAPTER 1            REPORT SUMMARY**

### **1.1        WHY DID THE AUDIT OFFICE CARRY OUT THIS AUDIT?**

The awarding of the contract for the collection of domestic garbage from Canberra households using Mobile Garbage Bins (MGBs) represents a major cost for the ACT Government Service. The costs involved are in excess of \$22 million over a service period of seven years.

The Legislative Assembly 1993-94 Estimates Committee recommended that the ACT Auditor General review the tender selection process as there was a degree of public interest in the tender with particular concerns being about fair and open competition between tenderers during the selection process and the contract achieving best value for money.

In response to the costs involved, the Estimates Committee's recommendation and the public interest evident, it was decided to conduct the audit.

### **1.2        WHAT DID THE AUDIT DO?**

Collection of garbage in Canberra prior to November 1994 was carried out by individual contractors in the North and South of Canberra, supplying services at varying prices. A new garbage collection system was introduced in late 1994 following a tender process which commenced in 1993.

Three contracts were awarded at the conclusion of the tender process. The three contracts were for a:

- Domestic Garbage Collection Service from Canberra households using Mobile Garbage Bins;

- Domestic Recyclables Collection Service from Canberra households using Mobile Garbage Bins; and
- Domestic Garbage Collection Service from flats and units in Canberra using Hoppers.

The scope of this audit was concerned only with the contract for the domestic garbage collection service using mobile garbage bins (MGBs). The scope of the audit encompassed the evaluation of procedures undertaken leading to the awarding of the contract. Emphasis was placed on reviewing the process followed to select between the two most competitive tenderers; Thiess Contractors Pty Limited (Thiess) and Pacific Waste Management Pty Limited (PWM). Thiess was the successful tenderer.

The audit involved reviewing the Request for Tender (RFT) and the tenders submitted by the two most competitive tenderers to ensure compliance with the RFT. Analysis was undertaken of the financial issues involved. The various processes used to make the selection decision were reviewed. Meetings and discussions were held with key members of the Evaluation Committee and its sub-committees and relevant documentation was examined.

### **1.3 WHAT WAS THE OBJECTIVE OF THE AUDIT?**

"The objective of this Audit was

*"to provide an independent opinion to the Legislative Assembly on whether the contract for the collection of domestic garbage using mobile garbage bins was awarded*

- *based on a sound evaluation of the tenderers' abilities to deliver the required services; and*

- *on complete financial comparisons of costs and risks associated with each tender proposal."*

#### **1.4 WHAT DID THE AUDIT CONCLUDE?**

##### **Evaluation of Tenderers' Abilities to Deliver the Required Service (See Chapters 4 and 6)**

The audit conclusion in relation to the evaluation of service delivery is that the process was sound, including that the weight given to the Transport Workers Union's views was appropriate in the circumstances of this case.

Evaluation of the ability to deliver in industrial relations terms was predominantly based on endorsement by the Transport Workers Union (TWU) which provided an endorsement of the Thiess proposal but did not give its endorsement to the PWM proposal. Immediately the union made it clear in writing that it would not endorse PWM's proposal, discussions and requests for additional information were in the main transferred from PWM to Thiess.

The Evaluation Committee's comparative analysis of costs showed that there was little cost difference between the Thiess and PWM proposals. The facts that the Thiess proposal presented less deliverability risk and little or no industrial relations risk, while risk remained with the PWM proposal because of lack of TWU endorsement, convinced the Committee to limit its further discussions with PWM and concentrate its efforts with Thiess. This reasoning appears sound in the circumstances of closely equivalent costs.

There is no doubt that the composition of the Evaluation Committee and the Operational and Contractual Sub-Committees ensured that the abilities of the tenderers to deliver the service were fully evaluated. Discussions with the Evaluation

Committee during the audit revealed that the Committee had key concerns with the PWM owner driver proposal in that it involved 14 drivers, compared with 16 drivers in the company driver proposals, as submitted by both Thiess and PWM. This reduction in drivers and vehicles meant that the owner drivers would each have to service a significantly larger number of households per day in comparison to company drivers. Concerns of this nature did not exist with the successful Thiess proposal.

### **Financial Comparison of Risks and Costs (*See Chapters 4 and 5*)**

The audit conclusion in relation to the financial comparison of risks and costs is that the analysis performed can be considered as adequate, however it should have been more comprehensive, particularly in the area of quantifying and identifying the extent of the potential financial risks to which the Government is exposed through the Thiess proposal being accepted.

### **1.5 WHAT OTHER SIGNIFICANT ISSUES WERE NOTED DURING THE AUDIT?**

During the performance of the audit, the following two significant issues came to notice.

#### **Why Were Non-Conforming Tenders Accepted For Consideration? (*See Chapter 7.2*)**

The two most competitive tenders for this contract did not conform with the Request for Tender (RFT).

Both Thiess and PWM submitted conforming and non-conforming tenders. Their lowest priced options were contained in their non-conforming tenders. The Evaluation Committee however agreed to focus on the non-conforming tenders as part of the assessment of the lowest priced bids.

The non-conforming element of the Thiess tender involved the leasing of vehicles and MGBs by the ACT Government, i.e. using finance leases entered into by the Government to acquire the vehicles and MGBs rather than acquisition and ownership of the assets by Thiess. The RFT had specified that new vehicles and MGBs were to be purchased and owned by the contractor.

The non-conforming element of the lowest priced PWM tender was a proposal to use owner drivers contracted to PWM to provide the garbage collection service. The RFT provided for company employed drivers and not for owner drivers.

As the selection process evolved, the Evaluation Committee formed the judgement that the Thiess leasing proposal provided an acceptable and value for money method of delivering the required service. The Committee, although with reservations, considered the PWM owner driver proposal also to be acceptable. These two tenders had the potential to produce a better value for money outcome for the ACT Government than any of the conforming tenders.

On the basis that the solutions tendered by Thiess and PWM were acceptable, although not conforming with the RFT, the assumption can reasonably be made that the RFT was drawn more narrowly than it needed to be.

The Committee chose to proceed with evaluation of the non-conforming tenders because these tenders had the potential to provide best 'value for money'. It was considered by the Evaluation Committee that broadening the RFT and calling fresh tenders was not practical or necessary in this case.

On the information available to the audit, it is considered in this case that the Committee's approach was appropriate. It is suggested however that to avoid

possible implications of lack of probity or of corruption in the future, acceptance of tenders which do not conform to RFTs should occur only in rare situations. The reasons should be fully documented and approved at the highest appropriate levels. In most situations, if the requirements for conformity with specific conditions in the RFT are relaxed during a tender process, existing competitors should be given the chance to bid under the new requirements. If the requirements are varied significantly, fresh tenders should be called.

The comments in the preceding paragraph should not be construed to indicate that tenderers with innovative technologies or methodologies are to be disadvantaged through their technologies, etc. being disclosed to competitors. It is simply proposed that competitors should be given the opportunity to make fresh bids conforming to the relaxed or altered requirements.

**Why Were Leasing Opportunities Not Extended to Pacific Waste Management? (See Chapter 7.3)**

It is possible that reduced costs may have been achieved if a leasing option similar to Thiess' was put to PWM and investigated further by the financial sub-committee. The Committee did request from PWM additional information in relation to the cost of service delivery using a finance lease for MGBs. The committee has advised that it did not undertake analysis of the potential savings from this source because of their concerns about maintaining the probity of the tendering process and because PWM was never defined as the preferred tenderer. As part of the audit, an estimate has been made of the financial benefits which may have been available if further negotiations were undertaken. The results were as follows:

- estimated potential cost savings of \$420,000 from MGB leasing were possible; and

- the leasing of truck bodies could potentially have reduced costs by \$600,000.

The Evaluation Committee was potentially faced with a judgement on whether to initiate discussions with PWM on lease financing while at the same time needing to make a 'risk management' judgement related to the industrial relations issue. The industrial relations risk issue and the Committee's decision in relation to this were referred to earlier in this summary.

The audit opinion is that, in the circumstances, the Evaluation Committee's action in not conducting further discussions with PWM on leasing was appropriate. For the leasing options to have been made available to PWM, fresh tenders would probably have been necessary.

The Evaluation Committee accepted for consideration the non-conforming tender offered by PWM (owner drivers). To initiate discussions and negotiations on a non-tendered and second non-conforming aspect (lease financing) would probably have left the Committee open to criticism of partiality, impropriety or corruption.

## **1.6 FUTURE ACTIONS**

With 'outsourcing' likely to become an option more frequently considered for delivery of Government services, it is essential that no acceptable solution is excluded due to the wording of specifications. It is also essential that in any comparison between alternate providers and/or the Government continuing to deliver services, that impartial and sound evaluations of comparative abilities to deliver services are performed. Competent financial analyses involving full recognition and quantification wherever possible of benefits and risks must also be

undertaken. In the subject case of this audit, which is an example of outsourced services, if the specification had been less tight and if the financial analyses had included all the potential benefits, risks, etc. of the various possible solutions, it is feasible that a different decision may have been made.

In this regard, it is suggested the following general principles should be followed:

- Tender specifications should not be so narrowly drawn as to potentially eliminate acceptable solutions (both technical and financial). Specifying the desired result, rather than the method of achieving it is generally the more effective approach;
- Tender documents should state whether non-conforming tenders will be considered and, if so, explain how they will be assessed;
- If conditions are relaxed during a tender process, existing competitors should be given the chance to bid under the revised conditions. If the conditions are changed significantly, fresh tenders should be called;
- Offers should be assessed in a consistent fashion, on pre-determined criteria. Tender documents should be designed to elicit the necessary information to allow proper assessment in relation to each of the criteria;
- All Evaluation Committees dealing with Government contracts with significant financial impact should include members with appropriate and relevant financial expertise capable of evaluating all costs and risks to the Government;
- Key deliverability criteria for awarding of all Government contracts should be explicitly agreed prior to the commencement of tender evaluations.

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Obviously members of Evaluation Committees may come across additional information during the course of their evaluations which may result in a change in selection criteria. The rationale and background behind any such change should be clearly documented; and

- Before final decisions are made, all costs/benefits/risks should be identified and wherever possible quantified.

## **CHAPTER 2 PARTICIPANTS IN THE SELECTION DECISION PROCESS**

### **2.1 INTRODUCTION**

The experience, knowledge and other attributes which people with the responsibility for decision making bring to a decision making process are clearly a most important element in the quality of the final decision made. For this reason, the qualifications and roles of those involved in the selection decision were reviewed. The results are reported in this chapter in the audit.

### **2.2 FORMATION OF EVALUATION COMMITTEE AND SUB-COMMITTEES**

#### **Background**

The selection process was managed by an Evaluation Committee, convened by the General Manager, City Operations, which first met on 18 February 1994. This Committee also managed the selection process for the recycling and hopper contracts referred to in *Chapter 1*.

The Evaluation Committee decided to establish three Sub-Committees to address specific technical aspects of the evaluation of tenders. The Sub-Committees were established by the Evaluation Committee at different times during the course of the evaluation process as the need for additional detailed evaluation was identified. Key individuals were drafted onto each Sub-Committee to concentrate on specific technical aspects of the evaluation process.

The three Sub-Committees were:

- Contractual;

- Operational; and
- Financial.

All members of the committees and sub-committees continued to perform their normal duties during the selection process.

Discussions with committee and sub-committee members and other Department senior officials, together with the content of relevant documentation, evidences that the committee worked diligently throughout the process.

### **2.3 ROLES AND COMPOSITION OF EVALUATION COMMITTEE AND SUB-COMMITTEES**

#### **Evaluation Committee**

The agreed role of the Evaluation Committee was to:

- evaluate the tenders received;
- review the work of the three sub-committees;
- select a preferred tenderer;
- conduct the negotiations with the preferred tenderer in order to establish the basis for awarding the contract; and
- report and make recommendations on the awarding of the contract to the Secretary of the Department of Urban Services.

The Evaluation Committee consisted of six members from the Department of Urban Services:

- the Chair who was also General Manager of City Operations;

- two Waste Management representatives;
- two representatives from the Contracts Section of Public Works and Services; and
- one representative from the Business Development area, Corporate Services Group.

The committee held considerable experience in waste management operations and contractual negotiations, particularly in relation to garbage contracts.

The Evaluation Committee met regularly to review the progress of the evaluation of the tenders being undertaken by the Sub-Committees and to consider all aspects of the evaluation process.

### **Contractual Sub-Committee**

The agreed role of the Contractual Sub-Committee was to:

- examine tender offers for contractual conformity; and
- report back to the Evaluation Committee and provide advice to that Committee.

The Contractual Sub-Committee comprised three members. Two contracts officers from Public Works and Services and a Waste Management officer who also sat on the Evaluation Committee.

Members of the Contractual Sub-Committee were involved proactively in the process with the aim of preparing a contract which accurately and completely reflected the terms and conditions included in the Request for Tender (RFT) and the negotiations between the Evaluation Committee and the successful tenderer.

### **Operational Sub-Committee**

The agreed role of the Operational Sub-Committee was to:

- examine tender offers for operational conformity;
- determine sufficiency of offers; and
- report back to the Evaluation Committee and provide advice to that Committee.

This Sub-Committee comprised two Waste Management representatives who undertook a considerable amount of the technical evaluation performed during the evaluation process. These officers were also members of the Evaluation Committee.

### **Financial Sub-Committee**

The role of the Financial Sub-Committee was determined as the need for financial analysis developed during the course of the evaluation process. The Financial Sub-Committee undertook the following tasks:

- examined sales tax issues to determine possible sales tax exemption on the acquisition of bins, vehicles and spare parts used to maintain the vehicles for the duration of the contract;
- examined leasing arrangements/opportunities; and
- reported back to the Evaluation Committee on financial matters relevant to the evaluation.

The Financial Sub-Committee comprised a representative from Waste Management who also sat on the Evaluation Committee, a representative from Group Services and a representative from the ACT Treasury with experience in financial analysis.

The Treasury representative was involved in the lease evaluation as part of the awarding of the recycling contract prior to the garbage contract evaluation. The Treasury representative did not become involved in the garbage contract evaluation process until after 6 May 1994 when more detailed investigation of the Thiess leasing option was being undertaken.

The Financial Sub-Committee did not meet formally but communicated on an "as needs" basis to analyse particular financial aspects of the tenders. Information was passed between members as the financial analysis was progressed. The majority of the Sub-Committee's analysis was undertaken by the Treasury and Waste Management representatives.

#### **2.4 ROLE OF OTHER AGENCIES**

The ACT Treasury was involved in the evaluation process through their representative on the Financial Sub-Committee. The representative provided assistance to the evaluation process by providing the financial analysis techniques necessary for meaningful financial comparison of tenders.

The final contract documents were prepared by the ACT Government Solicitor. The contract was finalised based on the contract conditions included in the Request for Tender (RFT) and the other matters agreed during negotiations with the successful tenderer.

#### **2.5 ROLE OF DEPARTMENTAL SENIOR MANAGEMENT**

The Evaluation Committee was established by the Secretary of the Department of Urban Services who appointed the Committee Chairman. Selections of others to make up the Committee and Sub-

Committees were made by the Chair of the Committee.

The final report by the Evaluation Committee recommending the successful tenderer was forwarded to the Secretary for decision. The Secretary had delegated authority to approve the successful tenderer following an earlier Cabinet decision approving issue of the RFT. The Secretary signed the final contract.

## **2.6 CONCLUSION AND FINDINGS**

It was clear that in most respects, the matters covered in this chapter were entirely adequate for the selection process. The exception was in relation to the extent of involvement of persons with expertise in financial analysis. The audit findings are summarised following:

- *There was clear distinction of the roles of the various parties in the selection decision process;*
- *An Evaluation Committee was formed which comprised appropriate expertise and experience in all areas requiring evaluation, except in the discipline of financial analysis of all costs and benefits and lease financing costs and associated risks. The Evaluation Committee did not have as a member an expert with financing experience sufficient to provide proactive advice developing the terms of reference and evaluating financing options;*
- *The composition and roles of the contractual and operational sub-committees were appropriate; and*
- *The Financial Sub-Committee would have been more effective if it had been formed earlier, such as at the time of project scoping, and therefore was in a position to provide proactive advice to the Evaluation Committee rather than having the*

## CONTRACT FOR COLLECTION OF DOMESTIC GARBAGE

*limited role of providing advice on specific issues as they were put to it. It should be noted that the lease financing options that were raised by Thiess were not envisaged at the time the tender documentation was drafted.*

## **CHAPTER 3                    INITIAL INPUTS USED IN THE SELECTION PROCESS**

### **3.1            INTRODUCTION**

A decision has potential to be unsound if the inputs which are used as the basis for the decision are inaccurate, incomplete or irrelevant. This chapter includes the results of the audit review of the processes used for establishing and obtaining the initial inputs.

### **3.2            BACKGROUND**

The results from a trial of mobile garbage bins (MGBs) used for collection of garbage and recyclables in the suburb of Kaleen between November 1992 and August 1993 indicated that this was a cost effective approach for garbage and recycling collection which had a high level of acceptance by residents.

The results of the trial and recommendations for the introduction of a new collection system were considered by Cabinet on 22 December 1993. Decision No. 3837 includes Cabinet's endorsement of the calling of tenders for a provider of garbage collection services using mobile garbage bins (MGBs).

### **3.3            EXPRESSIONS OF INTEREST**

In September 1993 a request for Expressions of Interest (EOIs) was issued seeking Submissions from firms interested in providing the services under the proposed garbage contracts. The Department of Urban Services received 12 EOIs from interested firms.

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### **3.4 REQUEST FOR TENDERS**

Based on evaluation of the EOIs received, a Request for Tender (RFT) was provided to eight organisations on 10 January 1994. Tenders closed on 10 February 1994. The RFT outlined one zone, two zone and four zone options for the provision of services to the ACT. The garbage contract required a weekly collection of 140 litre MGBs for a term of seven years, with an option to extend for an additional 3 years.

A clause in the RFT titled "Assessment of Proposals and Tenders", advised that the Territory's objective was to obtain the best value for money, as well as taking the following factors into consideration:

- ability and current volume of work of the tenderer;
- technical, management and physical resources;
- reputation within the Industry;
- record of performance;
- financial capacity;
- industrial relations and safety record;
- price compared with estimated costs;
- technical solution to the requirement and compliance to specification; and
- sufficiency of cost to sustain service.

Audit discussions with the Evaluation Committee indicate that the expression of interest process had already covered many of these items and the evaluation of tenders involved specific investigation or reinvestigation of key criteria

### **3.5 TENDERS**

A compulsory briefing for tenderers was held on 1 February 1994 following distribution of the RFT. Tenderers were informed that non-conforming tenders would be evaluated as long as a conforming tender was also received.

The Evaluation Committee subsequently received and evaluated 8 tenders. Tenders submitted by Thiess Contractors Pty Ltd (Thiess) and Pacific Waste Management Pty Ltd (PWM) offered the two cheapest tenders and the Committee therefore concentrated their evaluation on these two firms.

Both Thiess and PWM submitted conforming and non-conforming tenders, with their lowest priced options contained in their non-conforming tenders. The Evaluation Committee agreed to focus on the non-conforming tenders as part of the assessment of the lowest priced bids.

The non-conforming element of the Thiess tender involved the finance leasing of vehicles and MGBs by the ACT Government i.e. using finance leases entered into by the Government to acquire the vehicles and MGBs rather than acquisition and ownership of the assets by Thiess. The RFT had advised tenderers that new vehicles and MGBs were to be purchased by the tenderer.

The non-conforming element of the lowest priced PWM tender was the proposal to use owner drivers contracted to PWM to provide the garbage collection service. The RFT did not provide for owner drivers.

### 3.6 AUDIT CONCLUSION

- *The audit opinion is that the processes for establishing and obtaining initial input for the selection decision were appropriate. In summary the processes involved the steps of:*
  - *calling for expressions of interest through public advertising;*
  - *analysing the expressions of interest received;*

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- *issuing a comprehensive Request for Tender (RFT) to firms which satisfied the expression of interest requirements; and*
- *holding a compulsory briefing session for tenderers.*

## **CHAPTER 4 THE SELECTION PROCESS**

### **4.1 INTRODUCTION**

This chapter outlines the steps taken in the selection process using the inputs described in the previous Chapter, further information provided by the tenderers and financial comparisons, etc. performed.

### **4.2 INITIAL COMPARISON OF TENDERS**

The tenders received were examined to determine conformity with the Request for Tender (RFT). The Contractual Sub-Committee standardised all tenders to ensure effective comparisons could be conducted. This included a comparison of the following key components of each of the eight tenders:

- total contract price;
- tenderer estimates of the number of households to be serviced;
- service cost per collection;
- maintenance costs;
- insurance costs;
- public information program;
- other costs;
- vehicle details and costs;
- fuel costs;
- employee numbers and labour costs;
- MGB price;
- bin warranty;
- bin polymer details and manufacturer configuration
- recycled content;
- option to use existing ACT Government owned depots; and
- other details.

A comparative statement was prepared as the basis for evaluating the various geographic options allowed to provide the service in the RFT:

- All ACT;
- Northside;
- Belconnen;
- Civic;
- Woden; and
- Tuggeranong.

Comparisons were undertaken of whether the tenders were conforming or non-conforming with the RFT, the price per service, total contract price, number of services, public information program, number of vehicles and type, option to use ACT vehicles and depots, total number of employees, and the profit component included in the contract, as well as additional tender comments and information.

Although a clear system of weighting for each selection criteria was set out as part of the evaluation process for the Expressions of Interest a similar weighting system was not set during the tender evaluation process.

#### **4.3 NEGOTIATIONS WITH TENDERERS**

The Evaluation Committee requested additional information from both PWM and Thiess at particular times during the evaluation process. Information was requested in writing and the Committee met with PWM and with Thiess, at various times during the course of the evaluation process, to clarify details of their respective proposals. These requests were not seen by the Committee as 'formal' negotiations with the tenderers but more as clarifications of the tendered proposals.

Thiess was selected as the preferred tenderer very late in the tender selection process due to the

competitiveness of the PWM bid. Formal negotiations were then held with Thiess as the designated preferred tenderer.

Negotiations with the preferred tenderer were carried out by a negotiation team which was comprised of members of the Evaluation Committee and a representative from the ACT Government Solicitor.

#### **4.4 INDUSTRIAL RELATIONS**

A clause in the RFT titled 'Industrial Relations' drew the attention of the tenderers to the principles of wage determination by the Industrial Relations Commission. The clause outlined the Territory's policy of awarding contracts only to those tenderers capable of demonstrating a good industrial record. This was defined as:

- adherence to awards and formal industrial agreements;
- adherence to National Wage Case principles;
- prohibition of "all-in" or cash-in-hand payments; and
- refusal of claims for payment for lost time due to strike action.

Compliance with this criteria initially appears to have been measured by each tenderers' assessed ability to satisfy award wages and conditions for their drivers. In addition each tenderer was required to sign an Industrial Conduct Undertaking stating that the tenderer shall use their best endeavours to ensure that a good industrial record is maintained and where sub-contractors are involved, a similar Undertaking will be obtained by the tenderer from the sub-contractors. Both Thiess and PWM signed this undertaking.

PWM was the lowest cost offer received (*see 4.5*) and documentation reviewed suggests PWM were the initial focus of discussions with the Evaluation Committee. When PWM was unable to comply with a final request by the Evaluation Committee to provide written endorsement of their owner/driver proposal from the Transport Workers Union (TWU) the committee transferred the emphasis of its discussions and requests for additional information to Thiess. *Chapter 5* contains further comment on industrial relations issues.

#### **4.5 FINANCIAL COMPARISONS**

Initial comparison of all tenders received showed that the prices for servicing a single collection zone were considerably lower than the selective zone options. As a result the Evaluation Committee agreed that its attention should be directed to review of the tenders which proposed a single contract for collection of garbage in all zones.

The Committee also decided to concentrate on the comparison and evaluation of the Thiess Contractors Pty Ltd (Thiess) and Pacific Waste Management Pty Ltd (PWM) tenders which contained offers of considerably lower service prices than any other tenders. The Evaluation Committee and the Sub-Committees carried out detailed analyses of these two tenders, including requesting additional financial information from both Thiess and PWM.

The lowest cost tender was received from PWM, which offered to collect garbage for 69.95 cents per collection service equating to a total contract price of \$22,460,945. The PWM tender proposed that the garbage trucks would be owned and operated by owner drivers sub-contracted to PWM. Due to the owner driver component this tender did not conform to the RFT. PWM also submitted a conforming tender using company drivers priced at 77.3 cents per

collection service. PWM stated that it would be able to achieve greater efficiencies in terms of speed of collection, and therefore lower costs, by contracting owner drivers than would be achievable if company drivers were employed and this explained the significant cost difference between their owner driver tender and their company driver tender.

The PWM owner driver proposal was a conforming tender in all aspects other than the owner driver component.

Thiess provided a non conforming tender, incorporating a leasing proposal, which equated to a collection price per service of 70.00 cents. This price per service resulted in a total contract price only very slightly more than the non-conforming PWM proposal. The Thiess tender which contained the leasing proposal conformed in all other respects. Thiess' fully conforming tender price was 74.20 cents per collection service equating to a total contract price of \$25,329,933.

A summary of the four lowest priced offers (as extracted from Evaluation Committee documentation) is set out in *Table 4.1*. A more complete evaluation of the financial aspects of the competing tenders is included in the *Chapter 6* of this report.

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*Table 4.1*

	<b>PWM</b>	<b>Thiess</b>	<b>Thiess</b>	<b>PWM</b>
<b>Summary of Offer</b>				
- Labour	14 Owner Drivers	16 Company Drivers	16 Company Drivers	16 Company Drivers
- Conforming Tender	No	No	Yes	Yes
- Provision of Equipment	By Contractor	Territory to Lease Bins and Vehicles	By Contractor	By Contractor
- Number of Vehicles	16	18	18	18
- Depot	Own - Cost \$63,600 pa	Lease from Territory for \$1 pa	Lease from Territory for \$1 pa	Own - Cost \$63,600 pa
- Public Information Program	\$80,000	\$170,000	\$170,000	\$80,000
Tendered Service Price	69.95 cents	70.00 cents	74.20 cents	77.30 cents
Cost Difference/Service Price	-	+0.05 cents	+4.25 cents	+7.35 cents
Annual Difference (Based on 95,000 Services)	-	+\$2,470	+\$209,950	\$363,090
Standardised Service Price (with Common Base for Depot and Public Information Program)	68.43 cents	69.51 cents	73.71 cents	75.78 cents
Evidence Provided in Tendered Documents of Ability to Reach Agreement with Relevant Union for Enterprise Agreement to Cover Contract Operations	No	Yes	Yes	No

It will be noted from *Table 4.1* that the Thiess proposals included leasing a depot from the Territory for \$1 per annum. This was not accepted. Thiess is currently paying a market rent of approximately \$78,000 per annum for the use of the ACT Government depot at Phillip. Thiess is developing its own depot and will move its operations to that depot upon completion of the development.

The Evaluation Committee and financial sub-committee undertook a significant amount of financial analysis relevant to the awarding of the tender. However, given the complexity of the financing arrangements and the closeness of the Thiess and PWM tender prices there were a number of additional costs and benefits which would have been appropriate to analyse to a greater degree. Additional analysis may have enabled the Evaluation Committee to obtain a more complete view of the cost differences between

the Thiess and PWM tenders. These issues are discussed further in *Chapter 5* of this Report.

#### **4.6 THE SELECTION DECISION**

The basis for the Evaluation Committee's recommendation were detailed in a 20 June 1994 Minute to the Secretary of the Department of Urban Services to support its recommendation to award the MGB domestic garbage collection contract to Thiess. The Minute also recommended acquisition of vehicles and MGBs by the ACT Government using a finance lease.

The following is a summary of the basis for the recommendation:

- a service price which is comparable with the lowest offered by PWM;
- additional security in the Territory owning the 18 collection vehicles to be used in the contract;
- a fixed bin price for additional/growth bins for the term of the contract;
- a special service for the disabled is to be provided at no extra cost;
- a more comprehensive public information program;
- union support for the proposal and a firm basis upon which to establish an enterprise agreement; and
- greater employment opportunities for existing employees and the subsequent reduction in exposure for redundancy payments.

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#### 4.7 MAJOR DECISION INFLUENCES

From the documentation of the assessment of the tenders, and the recommendation provided to the Secretary, Department of Urban Services it has not been possible to identify a clear weighting applied to each of the selection criteria.

The initial conclusion of this audit was that the Evaluation Committee placed most importance on price. When two similarly priced tenders were identified, it appears from the documentation that the Evaluation Committee then relied principally on industrial relations issues to differentiate between those tenders. According, however, to verbal advice provided during several discussions with members of the Evaluation Committee, price and certainty of service delivery (in an operational as well as industrial relations context) were the most important decision influences.

As was mentioned earlier, on face value a review of the documentation does not directly clarify the Evaluation Committee's emphasis on service delivery evaluation other than in relation to industrial relations concerns. It can be safely accepted nevertheless that the technical abilities required to supply the services were adequately reviewed given the technical expertise contained within the Evaluation Committee. Further comment on the industrial relations issue is contained in *Chapter 5* of this report.

Although the 24 June 1994 Minute to the Secretary listed several reasons for recommending Thiess the audit review of documentation and discussions with Committee members supports the view that, of the reasons listed, Thiess' comparative price and industrial relations confidence (as evidenced by the endorsement of the TWU), were the most significant by far. The perceived lack of industrial relations risk associated with Thiess in comparison to PWM was most relevant.

## 4.8 AUDIT CONCLUSION AND FINDINGS

The conclusion from this chapter is that price correctly played an important role in the selection decision. When it was apparent that the two most competitive tenderers' prices were very similar, deliverability in an industrial relations context became the determining factor and led to the eventual selection of Thiess. This chapter's findings are as follows:

- *Comparisons by the Evaluation Committee of costs of the Thiess and PWM lowest cost tenders produced very similar costs;*
- *As a result of costs being considered similar by the Evaluation committee industrial relations issues, and their relationship to service deliverability, became the key differentiating factor in the selection decision;*
- *As Thiess had written support from the relevant union, and PWM did not, and was unable to obtain support, the Evaluation Committee eventually selected Thiess as the preferred tenderer with the major documented reason being the perceived lack of industrial relations risk in comparison with PWM; and*
- *The Evaluation Committee's recommendation to the Departmental Secretary contained several reasons to support the selection of Thiess however the audit opinion is that price and industrial relations were the major decision influences.*

## **CHAPTER 5 FINANCIAL COMPARISONS**

### **5.1 INTRODUCTION**

Analysis of the financial cost of the two preferred tenders was a key part of the process of comparative analysis undertaken by the Evaluation Committee. The two bids were not easily comparable due to the different financing methods proposed and the differing content of the tender information.

The financial analysis was undertaken by members of the Financial Sub-Committee and reviewed by members of the Evaluation Committee.

### **5.2 COMPARISON METHODS USED**

The Financial Sub-Committee undertook a comparison of the various financial components of each of the Thiess and PWM tender offers. The initial analyses consisted of specific comparison of tender service prices to identify the two cheapest tender offers - being those from PWM and Thiess.

Discounted cash flows were prepared for each of cheapest offers received from PWM and Thiess using net present value as part of the evaluation process to compare the current dollar costs of these bids. This was necessary to enable a comparison of the costs of the tenders converted to current dollar values. Without this type of analysis, the complications introduced by the lease payments being made over seven years as proposed in the Thiess tender would have resulted in a misleading comparison.

### **5.3 OUTCOMES OF THE EVALUATION COMMITTEE'S ANALYSES**

#### **Net Present Value (NPV) Analysis**

The NPV analysis undertaken calculated that the costs of the PWM owner driver non-conforming tender and the Thiess leased trucks and mobile garbage bins (MGBs) non-conforming tender were very similar. Using the assumptions made by the Financial Subcommittee and agreed by the Evaluation Committee the NPV calculation of the cost of the PWM tender was approximately \$25000 cheaper than the Thiess tender. This amount was appropriately considered not material in the context of a contract with a total value in excess of \$22 million.

### **5.4 AUDIT REVIEW OF THE NPV ANALYSIS**

#### **Financial Risks**

The Evaluation Committee and financial sub-committee undertook significant financial analysis relevant to the awarding of the tender. Given the complexity of the financing arrangements and the closeness of the Thiess and PWM tender prices however, there were a number of additional costs and benefits which it would have been appropriate to analyse to a greater degree. This additional analysis is likely to have provided the Evaluation Committee with a more complete view of the risks attached to the terms of the tenders evaluated.

Thiess was able to significantly reduce the cost of service for the garbage collection contract by having the Government lease the trucks and MGBs rather than Thiess itself buying or leasing them. The effective result is the Government will own the assets not Thiess. The Government has a much lower cost of borrowing than Thiess because of its better credit rating, and therefore is able to enter finance leases

with a lower interest rate than would have been available to Thiess.

The cost benefit generated by this financial arrangement reduced the cost of services to the extent that it was almost identical with PWM's non-conforming tender price however it created certain financial risks to which the Government would not have been exposed if the PWM tender had been accepted. These risks relate to the residual value of the trucks and the effects of movements in interest rates.

The extent of redundancy payments required to be made to employees working for contractors under the old arrangements who would not be re-employed under the new arrangements was another risk not taken into the NPV.

### **Residual Values of Trucks**

The use of the lease arrangements increased the financial risk to which the Government was exposed in relation to the residual value of the trucks. The terms of the truck lease require a residual payment after 7 years equivalent to 30% of the cost of the trucks, excluding sales tax.

Summary details of the finance lease are presented in the following table:

	<i>18 Trucks</i>	<i>Individual Truck</i>
Purchase Price	\$3,231,100.05	\$179,505.56
Residual @ 30%	\$969,330.02	\$53,851.67

The risk exists that if the actual market value of the trucks, at the end of 7 years, is less than the residual value the Government will have to meet the shortfall. The actual cost to the Government of the lease transaction will then be higher than was calculated in the financial analysis. Conversely, if the market value

is higher than the residual, a financial benefit will accrue to the Government.

The maximum risk potential which could have been included in the analysis would be on the assumption that the trucks had no market value at the completion of the 7 year term. In this case the Government would have to meet the whole of the residual payment of \$969330 with no offset from proceeds of sale of the trucks. It is more likely that the trucks will have some market value, but no documented analysis of the possible value has been found in the files.

Discussions with members of the Evaluation Committee indicate that residual values were discussed and the assumption made that the truck market values at the end of 7 years would be equivalent to the residual value set in the lease.

Members of the Evaluation Committee have indicated the following rationale for their assumptions on residual value as follows:

- industry experience based on the sale of previous garbage trucks; and
- enforcement of the servicing conditions in the contract to ensure that the trucks are maintained to a high standard.

The fact that consideration of the potential downside of the residual payout was not included in the financial analysis is a point of concern. The extent of the impact which various market values would have on the NPV results should have been calculated to illustrate the potential effects the various market values could have on the eventual cost of the Thiess proposal.

The following example is provided for illustrative purposes only and does not represent an audit opinion on the eventual sale price of the trucks: if the

eventual total sale price of the trucks was \$540,000 (and not the residual lease value \$969,330), then an NPV analysis incorporating this would show that the Thiess tender would have cost some \$286,000 more than the PWM tender in today's dollars. This illustration is provided to demonstrate the sensitivity of overall eventual costs of providing services to future events and therefore why it is essential to quantify the financial effect of these to the certainty possible. If reasonable certainty is not achievable, then analyses should be performed with a range of possible amounts in order that decision makers can consider a range of potential outcomes.

### **Movements in Interest Rates**

The Evaluation Committee's recommendation to select Thiess was based on the use of a fixed rate financing lease which was similar to the lease approved by Treasury as part of the terms of awarding the recyclables contract. During the evaluation undertaken for the recyclables contract Treasury provided advice to the Evaluation Committee that the actual fixed interest rate proposed for the financing lease was comparable to the rate which would have been achieved by Treasury if it were financing the transaction. The Evaluation Committee made its recommendation to the Secretary, Department of Urban Services accordingly.

Following the recommendation being approved at the Department of Urban Services, Treasury undertook further negotiations to use a variable interest rate (rather than a fixed rate) in the finance lease - on the basis that it would provide a better risk portfolio for Government. Between the time when the fixed interest rate was being considered by the Evaluation Committee and the formal awarding of the variable interest rate contract to the financing organisation (ABN Amro), interest rates fell. As a result, the Government will achieve a potentially better result of approximately \$250,000 over the term of the contract

in comparison with the NPV analysis on which the Secretary's decision was based. Conversely, if interest rates move upwards rather than downwards, an unforeseen increase in costs would occur.

Of concern in this situation is that recommendations and decisions were made to proceed with the awarding of the contract prior to the finalisation of all material terms of the financing. It would have been more appropriate for Treasury to have had a greater participation in the negotiation process to achieve a final recommendation from a whole-of Government perspective prior to final selection decision being made. This would also have ensured that all relevant information was available during the decision process to provide comfort that the Government actually achieved best value for money.

There were no analyses in the selection decision process of the extent of the financial risks which could arise from interest rate movements as the decision by Treasury to use variable interest rates was made some time after the decision process to award the contract to Thiess had been completed by the Evaluation Committee.

### **Redundancy Payments**

The Evaluation Committee identified the likelihood that the Government would be liable for redundancy payments to certain employees working for garbage contractors under the old arrangements who would not be re-employed following the introduction of the new garbage contract. The Committee obtained independent legal opinion confirming this was the case.

The potential benefit of subsequent reduction in exposure to redundancy payments under the Thiess contract was included as a positive in the recommendations to the Secretary, Department of

Urban Services. The potential benefit, however was not quantified.

The audit team has been informed that the redundancy costs might have been as high as \$1m - (actual cost was \$371,000). Given this cost it is surprising that there does not appear to be any documentary evidence to demonstrate that analysis of the potential impact of these payments on the comparable costs of the different tenders was included in the financial evaluation.

An example of the impact of redundancy payments was conducted as part of this review. The sensitivity analysis demonstrates the impact of a \$40,000 difference in redundancy payments between Thiess and PWM.

Members of the Evaluation Committee have indicated that it was not possible to make any realistic assessment of the likely impacts of redundancy payments. Notwithstanding this, the unquantified potential benefits were included as a decision factor in recommending Thiess as the successful tenderer.

At the completion of the current contract awarded to Thiess, the Government will not be liable for redundancy payments as it was upon termination of the previous contract.

## **5.5 SENSITIVITY ANALYSIS**

The following table summarises the financial results of the sensitivity analysis discussed in the previous sub-sections.

<b>Sensitivity</b>	<b>Contract Cost - PWM</b>	<b>Contract Cost - Thiess</b>	<b>Difference</b>
Base Case	\$ 22,273,862	\$ 22,298,756	\$ (24,894)
Redundancy Difference of \$40,000	\$ 22,273,862	\$ 22,262,226	\$ 11,636
Lower Truck Residual Value	\$ 22,273,862	\$ 22,560,021	\$ (286,159)

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A negative difference indicates that the PWM price is less than the Thiess price.

**5.6 COMPARISON OF LEASE WITH OUTRIGHT ACQUISITION**

Finance Circular No 1995/03 from the Commonwealth Department of Finance states that:

*"Generally there is a presumption against leases to the Commonwealth because the Government can generally raise finance at a lower rate of interest than any private or individual company. It is difficult to see how a lease can be cost effective unless the lessor is able to dispose of the residual property at the end of the lease at higher price than the value of the residual to the Commonwealth."*

Review of the finance lease agreements entered into between the Department of Urban Services and the lease financing company reveals that the interest rate being paid to the company includes a margin of 0.35% over the rate which the company estimates as its cost of borrowing the funds to purchase the trucks and MGBs. The interest rate being charged by the company is based on the three month average buying rates for 90 day bank accepted bills of exchange plus the margin of 0.35%. Information provided by the ACT Borrowing and Investment Trust (ACTBIT) which manages the Government's borrowing and investment activities is that it can borrow on at least the same terms as the finance company. On this basis, the company's 0.35% would have been saved if ACTBIT had financed the purchase of the assets.

It should also be noted in this context that this is the first instance where major capital investment has been undertaken by the ACT Government where the agency is directly financing the purchase of the assets through their recurrent budget. The usual situation is that purchases of capital assets are made from the capital allocations in the budget.

## 5.7 CONCLUSIONS AND FINDINGS

The financial analysis conducted by the Finance Sub-Committee was detailed and supported the recommendation by the Evaluation Committee. The analysis, however, did not include several factors which would have improved the comprehensiveness and usefulness of the results produced by the analysis. This audit opinion is supported by the following findings:

- *The Finance Sub-Committee conducted a detailed Net Present Value (NPV) analysis of the PWM and Thiess tenders and found costs to be very similar;*
- *Although the Evaluation Committee and financial sub-committee undertook a comprehensive amount of financial analysis relevant to the awarding of the tender, given the complexity of the financing arrangements and the closeness of the Thiess and PWM tender prices, there were a number of additional costs, benefits and risks that it would have been appropriate to analyse to a greater degree:*
  - \* *detailed and explicit assessment and acknowledgment of potential financial exposure to the residual costs of the trucks if market value at the end of 7 years was lower than the residual, or potential benefit if the market value was higher than the residual value;*
  - \* *proactive investigation of the ability to quantify variations in potential redundancy payments necessary if the Thiess tender or the PWM tender were accepted; and*

- \* *investigation of the possibility that potential financial savings to the Government may have been achievable from direct acquisition of the trucks and bins by the Government rather than leasing;*
- *Due to the decision to use a variable rate finance lease (rather than a fixed interest finance lease) occurring after the selection process was completed, the potential financial impact of future movements in interest rates was not part of the selection decision process.*

## **CHAPTER 6 INDUSTRIAL RELATIONS ISSUES**

### **6.1 INTRODUCTION**

Analysis of the selection process and documentation indicates that industrial relations, and its relevance to deliverability, was a key assessment factor in the decision to award the contract to Thiess. In accordance with the "Industrial Relations" clause in the Request for Tender (RFT), compliance with this criteria initially appears to have been measured by each tenderers' ability to satisfy award wages and conditions for their employees. In addition each tenderer was required to sign an Industrial Conduct Undertaking stating that the tenderer shall use their best endeavours to ensure that a good industrial record is maintained and where sub-contractors are involved, a similar undertaking will be obtained by the tenderer from the sub-contractors. Both Thiess and PWM signed this undertaking.

### **6.2 THIESS POSITION WITH INDUSTRIAL RELATIONS ISSUES**

Thiess included supplementary information in their tender which provided strong support to their claims to be able to satisfy the Industrial Relations criterion. Specifically the tender included a letter from the Secretary of the ACT Branch of the Transport Workers Union (TWU) stating that the TWU and Thiess had held discussions to the effect that an Enterprise Agreement may be achievable between them should Thiess be awarded the contract.

### 6.3 PWM POSITION WITH INDUSTRIAL RELATIONS ISSUES

The PWM proposal involved the use of owner drivers where individual contracts were to be negotiated on a one-on-one basis, taking account of the requirements of the relevant award. This arrangement had been undertaken previously by the company in contracts in New Zealand. Owner driver arrangements are quite common in the Australian road transport industry. The Evaluation Committee, however, were concerned as owner driver arrangements are not a feature of the domestic waste collection industry in Australia.

Audit discussions with the Evaluation Committee revealed that a key concern of the Committee with the PWM owner driver proposal was that it involved 14 drivers compared with 16 in the company driver proposals submitted by both Thiess and PWM. This reduction in drivers and vehicles meant that owner drivers would each have to service significantly more households per day than company drivers. This represents a significantly increased productivity requirement. The concern of the Evaluation Committee was not explicitly documented or communicated in its recommendation to the Secretary, Department of Urban Services.

Members of the Evaluation Committee requested that PWM obtain written confirmation from the TWU that it could deliver on all aspects of its proposal. This request followed a statement by PWM to members of the Evaluation Committee at an early meeting that Union support would be an important indicator of its ability to deliver the service. PWM attempted to obtain written confirmation from the TWU and provided the Evaluation Committee with copies of its correspondence with the union to demonstrate its efforts in seeking the union's formal agreement.

PWM eventually put forward the position that, as there were to be separately executed contracts with

each of the individual owner drivers, they did not require TWU agreement to proceed with service delivery. PWM stated they had canvassed and received support from current TWU members who wished to be considered by PWM as owner drivers.

After repeated approaches from PWM the Canberra Branch of the TWU released a statement on 5 May 1994 which included the following:

*"As regards the active tender submitted by Pacific Waste Management Pty Ltd in this matter, the Transport Worker's Union of Australia (Canberra Branch) has grave concerns over the labour force make-up of the proposed operation and the attitude of the company towards the use of an owner-operator fleet .....*

*Given the above and with consideration to the good relationship existing between Pacific Waste Management Pty Ltd and the Transport Worker's Union, the Canberra Branch regrettably finds itself unable to agree that terms of the tender proposal in this matter are appropriate."*

After receipt of the TWU statement, the Evaluation Committee decided that the Thiess leasing option should be examined in further detail with discussions with PWM being curtailed. At an Evaluation Committee meeting on 6 May 1994, the committee agreed to continue consideration of the Thiess offer, noting that there were other potential benefits from the Thiess proposal including the possible Territory ownership of the vehicles at the end of the contract, reduced problems with redundancies and reduced problems likely with the phasing in of the new contract and the phasing out of the Southside contract.

Included in the final Report of the Evaluation Committee to the Secretary of the Department of Urban Services was the following statement:

*"No additional information has been supplied by PWM to support their case that the owner-driver proposal can be delivered without opposition from the relevant union. The Evaluation Committee concluded that, without union support, there was a risk that PWM would have difficulties introducing the owner-driver proposal which may effect their ability to introduce the service and/or impact on delivery of other Government services."*

#### **6.4 ESTIMATES COMMITTEE HEARINGS**

The emphasis given to industrial relations in the selection process was raised at the Legislative Assembly Estimates hearing of 24 June 1994 when officers of the Department indicated that the tenderer (PWM) had been asked to provide advice on their capacity to come to an agreement with the TWU and enter into an enterprise agreement. The Departmental officers stated that while there was no formal requirement for the contractor to be unionised, the tenderer had raised the issue early in the course of discussions with members of the Evaluation Committee. A minute to this extent was made by members of the Committee and sighted as part of the audit. Audit review of the PWM tender did not identify any indication within the tender itself that PWM believed it was necessary to obtain the support of the union. The PWM tender does not raise the issue of union coverage or the certifying of an enterprise agreement.

## 6.5 CONCLUSIONS AND FINDINGS

It is clear that industrial relations issues played a major role in the selection decision with the TWU's endorsement of Thiess and non-endorsement of PWM having a significant influence. It can be concluded from the statements by the TWU that a 'real' risk would have existed if PWM's tender were eventually accepted. The Committee, on the basis that no material price difference existed between PWM and Thiess, reasonably took the view that the lesser risk Thiess proposal should be pursued. The audit conclusion is based on the following findings:

- *included in its tender documentation, Thiess provided written advice from the Transport Workers Union (TWU); the advice supported the likelihood there would be reduced industrial relations risk if the Thiess tender was accepted;*
- *PWM were excluded from consideration when TWU support for their proposal was not forthcoming. The committee understood that PWM considered union support important in its ability to achieve service deliverability and therefore required PWM to obtain that support. The lack of union support was apparently taken by the Evaluation Committee to be a strong indicator that acceptance of the PWM owner driver proposal would expose the Government to significant deliverability and industrial relations risk; and*
- *the decision to exclude PWM appears reasonable on the information available to the Committee that there was little cost or financial risk difference whether Thiess or PWM provided the garbage collection service.*

## CHAPTER 7                    OTHER ISSUES NOTED DURING THE AUDIT

### 7.1        INTRODUCTION

As the audit progressed, it became clear that the decisions process was complicated by the acceptance for consideration of tenders which did not conform to the Request for Tender.

Another matter which was examined during the audit was whether the leasing option accepted from Thiess, if availed of by PWM, would have generated a lesser cost service.

Each of these issues is discussed in this chapter.

### 7.2        ACCEPTANCE OF NON-CONFORMING TENDERS

As explained earlier in this report, the two most competitive tenders received were both non-conforming. The reason why these tenders were not rejected was because of the over-riding objective of the decision process which was to achieve 'best value for money'. The non-conforming tenders clearly provided significantly lower cost solutions to providing the domestic garbage collection service than did any of the conforming tenders.

#### **Thiess Non-Conforming Component**

The RFT included the following Condition of Tender:

#### ***CT 18    New Vehicles and MGB***

*Tenderers are advised that new Vehicles and MGB are to be purchased and used for the duration of the contract. All replacement Vehicles and MGB are to be new. The only exception will be for MGB used in the 'Trial of Wheeled Bins for the Kerbside Collection*

*of Households Recyclables and Waste in Canberra' procured from SOLO Waste.*

This clause makes it clear that the initial intention was that the contractor was to purchase and own the trucks and the MGBs. As discussed earlier, the final outcome is that the Territory owns the trucks and the MGBs with the contractor using these to provide the service. The significant financial benefit to the ACT of this arrangement has also been referred to earlier in this report.

### **PWM Non-Conforming Component**

Included within the RFT were the following Conditions of Contract which show the intention was that the contractor would employ staff to provide the service. The PWM owner driver proposal did not conform to these conditions. The RFT contained the following:

#### **20 Contractor's Labour and Equipment**

20.1 *The Contractor shall, at his own expense, provide and maintain sufficient labour, Vehicles, Materials, Plant, Tools, Depot or Depots and Equipment as are necessary for the performance for this Contract.*

#### **21 Award Wages and Conditions**

21.1 *Every person employed by the Contractor in connection with the Contract shall be paid wages at rates and employed under conditions of employment not less favourable than those established by any law of the Commonwealth or of the State or Territory in which the person is employed for work of the same character in the trade or industry concerned.*

## Audit Comments

Both the Thiess leasing proposal and the PWM owner driver proposal had the potential to generate significantly less costs for providing the garbage service than any tender which fully conformed with the RFT.

As acceptable solutions would have been eliminated if compliance with the specification had been enforced, it seems clear that the tender specification was framed too tightly.

When non-conforming tenders are accepted, it can raise problems for the assessors. Those assessing the tenders are in a difficult position in dealing with solutions which seem acceptable or even desirable, but which do not conform with the requirements of the specification. When non-conforming solutions, however desirable, win tenders, there can be accusations of partiality, impropriety and other corruption. It must be emphasised that the audit review revealed no indications that accusations of this nature would have any basis in this particular case.

The question was considered in the audit as to whether fresh tenders should have been called.

It could obviously be argued that the 'rules' had been changed during the process and that it may have been prudent to start again with a new tender process, with the requirements which made the leasing and/or owner driver arrangements non-conforming removed from the specification. This, however, would probably have taken longer than the Department of Urban Services could afford given the commitments which had been made to the community to have the service in early operation.

Calling fresh tenders would likely have taken longer than the time available and given that Thiess' and PWM's conforming tenders were the lowest

conforming tenders submitted, the strong probability was that they would also be the lowest of the fresh tenders.

### **Audit Conclusion**

The audit viewpoint is that the Evaluation Committee's actions in accepting the non-conforming tenders, and not calling fresh tenders was appropriate in the circumstances. Nevertheless, it is strongly recommended that in all future tenders, the following principles should be adopted and consistently followed:

- *Tender specifications should not be so narrowly drawn as to eliminate acceptable solutions (both technical and financial). Specifying the desired result, rather than the method of achieving it is generally a more effective approach;*
- *Tender documents should state whether non-conforming tenders will be considered and, if so, explain how they will be assessed;*
- *If the conditions are changed during a tender process, existing competitors should be given the chance to bid under the new conditions. If the conditions are changed significantly, fresh tenders should be called; and*
- *Offers should be assessed in a consistent fashion, on pre-determined criteria. Tender documents should be designed to elicit the necessary information to allow proper assessment in relation to each of the criteria.*

\* *Acknowledgment: Some comments and the recommended principles are based on content of 'Pitfalls and Probity' published by the NSW Independent Commission Against Corruption (June 1993).*

### **7.3 LEASING OPPORTUNITIES NOT EXTENDED TO PACIFIC WASTE MANAGEMENT**

The non-conforming element of the Thiess tender (i.e. the Government acquiring the trucks and mobile garbage bins (MGBs) through a finance lease) provided significant financial benefit to the Government. Apparently in order to give both competing parties access to this option, the Evaluation Committee invited PWM to advise whether they might also be able to achieve additional savings using the leasing alternative. PWM was specifically only requested to appraise the situation if MGBs were leased by the Department. No mention was made of the trucks being leased.

Notwithstanding the request for additional information no analysis was undertaken of the details of the leasing letter provided by PWM on the basis that it would not be appropriate for probity reasons unless PWM was named as the preferred tenderer.

#### **Potential Cost Reduction From Leasing MGBs**

In response to a request from the Evaluation Committee, PWM forwarded a letter on 21 April 1994 stating that savings of approximately 1.5 cents per service may be achievable if PWM financed the acquisition of the MGBs using a finance lease (assuming a ten year lease term and no residual value) rather than purchasing the MGBs.

Audit review of the documentation does not disclose that any detailed analysis of the impact of this potential reduction to the total cost of the PWM bid was undertaken by the Evaluation Committee. As part of the audit it has been calculated that the potential financial saving which may have accrued to the ACT Government from this option would have been approximately \$420,000 without any financing risks being left with the Government. It should be noted that this PWM proposal was based on PWM

entering the finance lease for the MGBs and not the Government. If, as with the Thiess arrangement, it was the Government which entered the lease, the saving would have been greater than \$420000 due to the Government's better credit rating, although as with the Thiess leasing proposal, the Government would become exposed to certain financial risks.

### **Potential Cost Reduction From Leasing Truck Bodies**

Additional discussions held with PWM by the audit team suggest that as part of their owner driver proposal PWM would have been able to offer further price reductions based on Government acquisition of the truck bodies. Under the PWM owner driver proposal, although the owner drivers would own the truck chasses, the truck bodies were to be owned by PWM. This would make any leasing arrangement involving the truck chasses complicated but the truck bodies could reasonably conveniently have been finance leased. There may have been some additional complication in the negotiated financial arrangements, but potentially there would also have been significantly reduced costs. Concerns relating to the possible residual value of the truck bodies would have to be taken into account if this option was to be considered.

After the official announcement of the decision to award the contract to Thiess, PWM sent a letter to the Department of Urban Services on 12 August 1994 indicating that PWM were only asked to submit a revised contract price for the scenario where MGBs were leased. They were not provided with the option to have the trucks or truck bodies leased. PWM asserted that given their lower cost starting point they may have been able to provide even greater savings than those which were generated from the Thiess leasing arrangement. PWM indicated that notwithstanding the need for the owner drivers to own the truck chasses, it would have been possible for the Government to lease the bodies of the trucks, and this

would have achieved significant cost savings of up to \$1 million compared to the Thiess tender.

### **Audit Comments**

It is difficult to validate the extent of the potential cost reductions given the requirement for additional information on service price and growth bin costs to enable accurate financial estimations to be made. On the basis however that the Thiess cost was considerably reduced by using the Government leasing option it is quite reasonable to assume that PWM costs would also be significantly reduced. The potential for savings would most probably be greater than the \$420,000 calculated on the basis of the letter received from PWM addressing the leasing of the bins alone.

For PWM, the Evaluation Committee was faced with a judgement whether to continue discussions including the lease financing which had not been included in PWM's tender and also a 'risk management' judgement related to the industrial relations issue.

The Committee was already considering the non-conforming tender offered by PWM (owner drivers). To add a further non-conforming aspect in the form of lease financing could clearly have left the Committee open to criticism along the lines outlined in the previous part of this chapter (i.e. partiality, impropriety or corruption).

The industrial relations risk has been explained elsewhere in this report. The audit opinion is that, in the circumstances, the Evaluation Committee's action in not conducting further discussions with PWM on leasing was appropriate.

Nevertheless, it is necessary to point out that the 'circumstances' which made the Committee's action reasonable arose, to a large extent, through the

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tendering specifications not providing sufficient scope for all acceptable solutions to conform with the specification. It is not possible to know whether PWM or any other tenderers would have offered similar proposals to Thiess if the tender specification had allowed these arrangements.

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SENIOR GOVERNMENT OFFICERS**

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## **CHAPTER 1                    REPORT SUMMARY**

### **1.1            INTRODUCTION**

This audit is the second of a planned program of short audits involving senior members of the ACT public sector, i.e. Chief Executives and Senior Executive Service Members of Departments, Authorities and other Agencies. These officers are collectively referred to in this report as 'Senior Government Officers'. These audits will review public expenditure where the persons incurring the expenditure may be able to override internal control processes due to their organisational seniority and/or authority.

The first audit from this program was of overseas travel arrangements for Senior Government Officers and the results of the audit were included in *Auditor-General's Report No. 7 of 1994*.

This audit reviews other benefits, entitlements and payments made to Senior Officers. While reviewing hospitality expenditure for Senior Officers, the opportunity was taken to also review any unusual hospitality type expenditure involving ACTGS staff other than Senior Officers.

### **1.2            AUDIT OBJECTIVE**

The major objective of the audit was:

- *to provide an independent opinion to the Legislative Assembly and the public as to whether allowances paid and costs incurred by Senior Officers of Government Agencies and Authorities were:*
  - \* *in accordance with applicable policies, guidelines and legislation; and*
  - \* *paid or incurred in the interests of the ACT Government and/or the ACT community.*

### **1.3 AUDIT SCOPE AND APPROACH**

The audit reviewed payments made to a sample of Senior Government Officers during 1994. If apparent irregularities were detected regarding payments during 1994, in some circumstances it was also considered appropriate to review payments made during 1993.

As mentioned earlier, the sample was drawn from senior members of the ACT public sector and included 10 Chief Executives and 48 SES Officers.

Areas included for review during the audit were:

- ensuring that leave taken was in accordance with entitlements and was correctly recorded on the personnel records;
- domestic travel;
- official hospitality expenditure;
- general expenditure incurred by Senior Government Officers, including from use of credit cards and petty cash; and
- acceptance of gifts.

### **1.4 SUMMARY OF FINDINGS**

Generally it was found that allowances and benefits which were paid to Senior Government Officers during 1994 were in accordance with applicable Government policies, guidelines and legislation, and were paid or incurred in the interest of the ACT Government and/or the ACT community.

Other findings were:

- at the time this audit was conducted, the entitlement for SES Officers to fly first class for travel within Australia was generally in excess of travel entitlements applicable to SES Officers in State Governments;

## NON-SALARY ENTITLEMENTS OF SENIOR GOVERNMENT OFFICERS

- in 1994, ACT Electricity and Water (ACTEW) varied the remuneration package for SES Officers to enable more components of the package to be fully claimed, making ACTEW SES packages inconsistent with general ACTGS SES packages;
- Frequent Flier points are often not being fully used by Agencies to reduce travel costs;
- regarding the acceptance of gifts, Agencies may benefit from having more specific guidelines developed within each Agency; and
- general expenditure and official hospitality expenditure for Senior Government Officers and other staff were generally in accordance with applicable guidelines and policies, however ACTEW adopts a somewhat different attitude to this type of expenditure than other ACTGS Agencies (*see Chapter 3*).

### 1.5 RECOMMENDATIONS

- The present entitlement of first class air travel for Chief Executives and SES travel be reviewed with the objective of making it more economical to the ACT Government (*note - this recommendation has been implemented*);
- Instructions be issued to make officers aware of how Frequent Flier points accrued from Government related travel can best be used for the ACTGS. The instructions could either be issued centrally by the Office of Public Administration and Management within the Chief Minister's Department, or individually by each Agency; and
- Each Agency develop guidelines to indicate situations where it would and would not be appropriate to accept gifts.

## **CHAPTER 2                      PAYMENT OF ALLOWANCES AND BENEFITS**

### **2.1            INTRODUCTION**

This Chapter contains the results of the review which was performed regarding the payment of allowances and benefits to Senior Government Officers. The areas which were reviewed are:

- official leave;
- domestic travel;
- official hospitality;
- other expenditure, including from use of credit cards and petty cash; and
- acceptance of gifts.

### **2.2            OFFICIAL LEAVE**

The leave conditions for all officers and employees of the ACTGS, including SES Officers, are specified in Standard 17 of the Public Sector Management Standards and Guidelines. Senior Government Officers who are appointed under contract generally have leave entitlements similar to permanent officers of the ACTGS.

Details of leave taken by Senior Government Officers were obtained, e.g. from Senior Government Officers' diaries, and checking was performed to determine whether the leave was:

- approved;
- in accordance with entitlements; and
- recorded on the personnel records.

## **NON-SALARY ENTITLEMENTS OF SENIOR GOVERNMENT OFFICERS**

Generally it was found that all leave taken by Senior Government Officers was approved, in accordance with entitlements and correctly recorded on the personnel records.

An exception of leave being taken in excess of entitlements was found in regard to leave taken by a former Statutory Officer who understood that he was entitled to the same recreation leave conditions applicable for ACT Supreme Court judges and magistrates, i.e. four weeks per year plus six weeks over the Christmas/New Year period.

The basic recreation leave entitlements for the former Statutory Officer were for four weeks recreation leave per year, or additional leave which may be specifically approved by the relevant Minister. Approval from the relevant Minister for the additional leave was neither sought nor given as the Statutory Officer understood that he was entitled to the additional six weeks leave over the Christmas/New Year period.

The confusion regarding the recreation leave entitlements for the former Statutory Officer resulted in the Officer taking leave of approximately 57 days in excess of standard ACTGS entitlements. The recreation leave entitlements of the present Statutory Officer have been more clearly specified and are basically four weeks per year, or additional leave which must be specifically approved by the relevant Minister.

### **Conclusion**

Except for the case described, it was found that all leave taken by Senior Government Officers was approved, in accordance with entitlements and correctly recorded on the personnel records.

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## **2.3 DOMESTIC TRAVEL**

### **Introduction**

Entitlements and conditions for domestic travel, including for SES Officers, are specified in Standard 14 of the Public Sector Management Standards and Guidelines. For Senior Government Officers who are appointed under contract, only one instance was noted where the contract

## NON-SALARY ENTITLEMENTS OF SENIOR GOVERNMENT OFFICERS

entitled the Chief Executive Officer to domestic travel entitlements in excess of those specified in the Public Sector Management Standards and Guidelines. The contract entitled the Chief Executive Officer to have some private travel costs paid for by the Government in regard to the visitation of family.

In regard to domestic travel testing was performed and it was generally found that domestic travel:

- was approved;
- was in accordance with entitlements from the Public Sector Management Standards and Guidelines; and
- was correctly calculated, paid and acquitted.

However in regard to domestic travel, several issues were noted and they are:

### **Standard of Travel**

Standard 14 of the Public Sector Management Standards and Guidelines advises that:

*‘SES Officers and equivalent are entitled to travel first class within Australia or to and from Australian territories on official business.’*

The audit disclosed that most SES Officers travel at business class with only a small number of SES Officers travelling either first or economy class.

The entitlement for first class travel is at a higher level than generally exists for domestic travel by Chief Executives and SES Officers from State Governments. Some examples of the domestic travel policies which exist for State Governments are:

- in regard to the standard of travel for all officers in South Australia, a Treasurer’s Instruction requires that:

*‘(a) staff, other than Ministers and Chief Executive Officers or employees travelling in the company of Ministers or Chief*

## NON-SALARY ENTITLEMENTS OF SENIOR GOVERNMENT OFFICERS

*Executive Officers, shall select discounted, promotional or economy class fares, unless there are extraordinary circumstances; and*

- (b) *staff shall select the lowest fare compatible with their travel needs on all occasions. Selection of higher cost alternatives should be limited to those occasions when, because of timing, booking or other similar restrictions, travellers are unable to comply with conditions attached to lower fares.'*

Chief Executive Officers in South Australia are entitled to air travel at a maximum of business class.

- For New South Wales SES Officers, an instruction was issued from the Premier's Office in 1990 advising that all SES travel to eastern states and South Australia was to be at economy class. Travel to other areas in Australia can be at a maximum of business class; and
- in Queensland and Victoria it is understood that Chief Executive Officers are entitled to fly at business class while SES Officers fly at economy class.

### **DPA Response**

This matter was referred to the former Department of Public Administration (DPA) for comment. DPA initially advised that they considered the class of business travel for Chief Executives and SES to be part of the officers' remuneration package and any change to the package should only be considered in conjunction with a total review of the remuneration package. Subsequently, on 28 July 1995 the Commissioner for Public Administration advised all Agency heads of an amendment to the class of travel for Chief Executives and SES. The amendment advised that travel to Brisbane, Sydney and Melbourne is to be at economy class and business class to other destinations.

The Audit Office considers travel arrangements on official business, including the class of travel, to be clearly separate to remuneration package considerations.

### **ACTEW - Spouse Accompanied Travel Entitlement**

## NON-SALARY ENTITLEMENTS OF SENIOR GOVERNMENT OFFICERS

Under the usual conditions which exist within the ACTGS, SES Officers are entitled to claim a maximum of \$1,000 per year for accompanied spouse travel on business travel.

In 1994, the Board of ACTEW approved a change to the SES remuneration package to enable SES Officers to more fully claim amounts from the package. The \$1,000 entitlement for spouse accompanied travel is a benefit which is often not used by SES Officers. The change enabled ACTEW SES Officers to substitute the spouse accompanied travel benefit for the claiming of costs such as business clothing or child care costs. The ACTEW SES package is now inconsistent with packages applicable in other ACT Agencies.

### **Frequent Flier Schemes**

Both Ansett and Qantas airlines offer participation by airline travellers in Frequent Flier schemes. The schemes enable travellers to accumulate points which can be used to reduce the costs of future travel.

Participation in the scheme usually costs \$30 per year, or is free if membership is held with either Ansett 'Golden Wing' or Qantas 'Flightdeck'. As many ACTGS SES Officers hold one of these memberships, paid from official funds, points are automatically accrued from air travel by these officers.

The accrued points are held by the airlines in the names of the individual officers, and not the Agency. In regard to the use of Frequent Flier points, Paragraph 7.1 of Chapter 12 from Standard 4 of the Public Sector Management Standards and Guidelines advises:

*'Frequent Flier programs run by airlines present situations where officers are offered benefits in return for their business travel. Sub-Section 9(m) of the Act prohibits officers using their official position for individual gain, and therefore official travel and associated costs (like accommodation and car rental) should not be used to accumulate bonus points for Frequent Flier benefits for private purposes (Standard 23, Overseas travel -Short Term refers).*

*Participation in lottery-style competitions associated with air travel, where passengers are invited to place boarding*

*passes or business cards in competition containers, is also a breach of Sub-Section 9(m) of the Act. Officers are therefore not permitted to participate in these competitions.*

*The advantages offered by airlines to customers should, however, be used by Agencies. Chief Executives should negotiate with airlines to use bonus points from official travel, or to be converted to a discount on official travel costs.'*

During the audit, it was not possible to determine whether officers had possibly used accrued Frequent Flier points for private purposes as the airlines do not release details regarding use of the Frequent Flier points. Only one instance was noted of an ACTGS Officer utilising Frequent Flier points to reduce the costs of official travel.

The ACTGS is presently not receiving the full benefit of possible use of Frequent Flier points to reduce the air travel costs. It is recommended that instructions be issued to make officers aware of how Frequent Flier points can best be used for the ACTGS. The instructions could either be issued centrally by the Chief Minister's Department or individually by each Agency.

In South Australia, the Treasurer's Instruction in regard to the use of Frequent Flier points is stronger than present ACTGS instructions in its requirements for utilisation of these points. The South Australian Treasurer's Instruction requires that:

*'Chief Executive Officers are to ensure that officers in receipt of Frequent Flier points incurred on Government-related business utilise these rewards for 'free flights' in relation to their own future Government travel requirements.'*

## **Conclusion**

Travel by Senior Government Officers was generally found to be in accordance with relevant policies and procedures. The present entitlement of first class travel for Senior Government Officers appears inconsistent with the more economical standards of travel generally used by State Governments. It was also found that most Agencies do not have

processes to ensure that Agencies obtain the full benefit of possible airfare reductions from use of Frequent Flier schemes.

It was also found that ACTEW packages are now inconsistent with other Agencies' SES packages.

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## **2.4 OFFICIAL HOSPITALITY**

The Territory provides funding and incurs expenditure on official hospitality at three separate levels. They are:

- official hospitality provided by Ministers;
- the Commissioner for Public Administration's entertainment allowance; and
- Chief Executives' hospitality allowance.

As the expenditure of funds by Ministers was outside the scope of this audit, expenditure was only reviewed from the Commissioner's entertainment allowance and Chief Executives' hospitality allowance.

Chapter 3 from Standard 15 of the Public Sector Management Standards and Guidelines advises the principle underlying the incurring of expenditure on official hospitality to be:

*'Public moneys should only be spent on official hospitality which is associated with official ceremonies or functions and where it will foster the efficient conduct of public business or promote the public interest.'*

For those Agencies subject to the Treasury Directions, Section 13 provides more details regarding the requirements for the use of funds for hospitality purposes. Areas addressed include examples of expenditure which would be appropriate charges against hospitality funds, use of hospitality for ACTGS Officers, working lunches and required approval for the incurring of hospitality expenditure.

Expenditure from the Commissioner's (formerly the Secretary of the Chief Minister's Department) entertainment allowance was reviewed and found to be in accordance with the requirements of the Public Sector Management Standards and Guidelines and the Treasury Directions.

From a review of expenditure from Chief Executives' hospitality allowances, it was generally found that the expenditure was in accordance with the requirements of the Public Sector Management Standards and Guidelines and Section 13 of the Treasury Directions.

### **Conclusion**

Hospitality expenditure incurred by Senior Government Officers was generally found to be in accordance with ACTGS guidelines

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## **2.5 ACCEPTANCE OF GIFTS**

Chapter 12 from Standard 4 of the Public Sector Management Standards and Guidelines addresses the acceptance of gifts by ACTGS Officers. It advises that officers should not accept gifts or other benefits apart from their entitlements unless they have the written approval of their Chief Executive, or gifts may be accepted without the written approval of the Chief Executive in the following situations:

- where the gift is of little financial value and there is no reasonable possibility for the gift to cause a real or apparent conflict of interest;
- teachers offered minor gifts at the end of the year;
- hospital staff offered minor gifts of appreciation from patients; and
- officers offered minor gifts from colleagues when leaving a work area.

It was only practical during the audit to perform a limited review regarding the possible acceptance of gifts as either no documentation existed regarding the gifts received or officers were unlikely to voluntarily disclose the occurrence of inappropriate acceptance of gifts,

## **NON-SALARY ENTITLEMENTS OF SENIOR GOVERNMENT OFFICERS**

had it occurred. Interviews were held with the sample of Chief Executives and SES Officers, with the following being advised:

- no approvals were given by Chief Executives during 1994 for the acceptance of gifts; and
- there were widely differing views as to the situations when it was considered appropriate to receive gifts and when it would not be appropriate. Some Senior Government Officers advised that they would not accept gifts under any circumstances, whereas others regarded there being certain circumstances where the acceptance of gifts was appropriate.

Anecdotal advice was provided during the audit to indicate situations where inappropriate acceptance of gifts may have occurred, but no evidence regarding these situations was provided.

It is considered that Agencies may find it of benefit to develop guidelines specific to the Agency advising of situations when it would or would not be inappropriate to accept gifts.

### **Conclusion**

It was not possible from the audit to determine whether the possible acceptance of gifts by Senior Government Officers is appropriate. It is recommended that each Agency develop guidelines to address specific situations where it would be appropriate or inappropriate to accept gifts.

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### **2.6 USE OF HIRE CARS**

When reviewing general operating expenditure incurred, it was noted that a former Statutory Officer had used private hire cars in excess of the officer's entitlements. The Audit Office has been advised that when the officer was appointed there was some ambiguity as to the conditions of the officer's service and the officer thought that he was entitled to use of hire cars in addition to use of a car provided as part of the officer's remuneration package. This matter has since been clarified and hire cars are not used by the present Statutory Officer.

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## **2.7 OTHER EXPENDITURE**

A review was performed of general operating expenditure incurred by Senior Government Officers, including expenditure through use of official credit cards and from petty cash. Expenditure was generally found to be in accordance with ACTGS guidelines and directions.

## **2.8 FINDINGS FROM THIS CHAPTER**

- Generally it was found that allowances and benefits which were paid to Senior Government Officers during 1994 were in accordance with applicable Government policies, guidelines and legislation;
- The entitlement for SES Officers to fly first class for travel within Australia is generally in excess of travel entitlements applicable to SES Officers in State Governments;
- In 1994 ACTEW varied the remuneration package for SES Officers to enable more components to be fully claimed, making the ACTEW SES package inconsistent with general ACTGS packages;
- Frequent Flier points are often not being fully used by Agencies to reduce travel costs; and
- Regarding the acceptance of gifts, Agencies may benefit from having more specific guidelines developed within each Agency.

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## CHAPTER 3                    OTHER PAYMENTS - ACT ELECTRICITY AND WATER

### 3.1        INTRODUCTION

As stated in the introduction to this report in *Chapter 1*, although the main emphasis of the audit was on non-salary entitlements provided to senior officers, the opportunity was also taken to review hospitality type expenditure by Agencies and Authorities involving staff other than senior officers.

ACTEW operates under different legislation to most of the Agencies reviewed in the audit. Major legislation which covers ACTEW includes the ACT Electricity and Water ACT and, from 1 July 1995, the Territory Owned Corporation Act. ACTEW also has industrial agreements in place which are specific to ACTEW.

In accordance with the applicable legislation, the ACTEW Board has wide ranging powers to set policies, guidelines, etc. for the conduct of ACTEWs operations.

During review of records for expenditure at ACTEW, several payments were noted of a nature which in other ACT Government Agencies would not have been met from public funds. These payments, while not directly relating to entitlements or benefits paid to Senior Government Officers, are included in this report as they came to notice during the audit. Payments of a similar nature were not identified in other Agencies during this audit. The payments are reported to illustrate inconsistencies between ACTEW and other ACT Agencies. They are not reported as breaches of legislation, etc.

ACTEW has a Management Instruction regarding hospitality expenditure. ACTEW Management Instruction 50 titled 'Entertainment Expenditure' states that claims for reimbursement of entertainment expenditure must have an endorsement that the expenditure was not for ACTEW staff only, unless unusual circumstances prevailed and the expenditure was authorised by a Division Head or Chief Executive.

In a response to a draft of this report, ACTEW advised that it has adopted Corporate strategies which include developing a team based approach to work performance, improving internal communication processes, and

acknowledging and rewarding excellence in performance and advice and the expenditures outlined in this Chapter were made towards achievement of these strategies.

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### **3.2 STAFF MORNING AND AFTERNOON TEA COSTS**

Costs for staff morning and afternoon teas are paid from ACTEW funds. The annual cost for staff supplies of coffee, tea and biscuits is approximately \$60,000. These costs in other ACT Agencies are regarded as of a private nature and are funded by individual officers.

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### **3.3 CHRISTMAS PARTY COSTS**

It was noted that costs relating to the holding of some ACTEW Christmas parties were paid from ACTEW funds. Within other ACT Government Agencies, Christmas party costs are regarded as private costs to be met by individual officers. The holding of Christmas parties and funding by ACTEW were noted by the ACTEW Board in 1989. Details of the Christmas functions which were paid from ACTEW funds and conform with the 1989 Board noting were:

- ACTEW paid \$19,530 (i.e. \$15 per person) for a staff Christmas function which was held at Commonwealth Park on Friday, 16 December 1995. Costs were for food, drinks and a band; and
- a separate Christmas party was also held on Sunday, 4 December, for the children of ACTEW staff at a total cost of \$7,164. Both of these functions also occurred in previous years.

### **Section Christmas Party Not Conforming With Board Notation**

A particular section from ACTEW held an evening Christmas function at a local Canberra club with the costs of the function being paid from ACTEW funds. For the eight members of the section, the total cost was \$320 (i.e. \$40 per person) and covered a combined dinner and show.

\*\*\*\*\*

### **3.4 FAMILY DAY**

On Friday, 25 November 1994, a 'family day' was held for ACTEW staff members and their families. The function included the provision of a barbecue and bus tours to various areas within ACTEW to examine its operations. It is understood that all ACTEW staff members were entitled to attend and that approximately 500 ACTEW Officers actually attended.

ACTEW documentation shows that this event was an initiative for ACTEW employees for the 'International Year of the Family'.

An ACTEW estimate of the direct costs for this function is approximately \$4,600. This does not include the cost of staff absent from normal duties.

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### **3.5 EXPENDITURE FOR FAREWELLS AND OTHER OCCASIONS**

In other ACT Government Agencies, expenditure on farewell functions and other celebratory occasions attended by Agency staff are regarded as private in nature and consequently not met from public funds. Areas noted during the audit where expenditure on staff farewells and a celebratory occasion were incurred were:

- in May 1994, \$680 was paid for a function at a Canberra restaurant for the retirement of four ACTEW Officers. The function was attended by sixty ACTEW Officers;

- in October 1994, \$570 was spent in relation to a second anniversary function for the Business Services Division. The costs related to the provision of an anniversary cake, savouries and hire of waiters. The function was attended by 80 ACTEW Officers;
- in November 1994, \$137 was paid for a farewell lunch at a Canberra restaurant for an ACTEW Officer. The lunch was attended by 28 ACTEW Officers; and
- several instances were noted within ACTEW of morning tea costs for staff farewells being paid from official funds. The amounts paid usually ranged from \$20 to \$50 per function.

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### **3.6 ACTEW RESPONSE**

In response to the matters which have been raised, ACTEW has replied:

*'ACT Electricity and Water Authority has adopted Corporate strategies to:*

- *develop a team based approach to work performance;*
- *improve internal communication processes; and*
- *acknowledge and reward excellence in performance and advice.*

*These are clearly set out in the Authority's Corporate Plan, a copy of which is enclosed with this letter.*

*The expenditure about which you raise queries has been expended in line with these Corporate strategies, adopted by the Board and the Authority (and by the Minister), under normal delegation procedures.*

*You should note that some of these activities such as Christmas party costs have been in place and carried from ACTEW's predecessor, ACTEA.'*

### **3.7 CONCLUSION**

ACTEW pays costs which are normally regarded in other ACT Government Agencies to be of a private nature and payable by the staff. Examples of these costs are Christmas Party costs, staff farewell costs and morning and afternoon tea costs.

It is acknowledged that meeting costs of this nature can be beneficial to organisational harmony and productivity and also, conversely, ceasing to pay them may have negative effects. It is suggested, however, that in view of the difference in approach between ACTEW and other ACT Agencies, it would be appropriate for the ACTEW Board to review current policies and either confirm or alter the current arrangements.

## Annexure

### *Reports Published in 1992*

- 1 Information Technology Management Policies in the ACT Government Service
- 2 Financial Audits with Years Ending to 30 June 1991
- 3 GAO Annual Management Report for Year Ended 30 June 1992
- 4 ACT Board of Health - Management of Information Technology
- 5 Budget Outcome Presentation and the Aggregate Financial Statement for the Year Ended 30 June 1992
- 6 Financial Audits with Years Ending to 30 June 1992

### *Reports Published in 1993*

- 1 Management of Capital Works Projects
- 2 Asbestos Removal Program
- 3 Various Performance Audits Conducted to 30 June 1993
  - Debt Recovery Operations by the ACT Revenue Office
  - Publicity Unaccountable Government Activities
  - Motor Vehicle Driver Testing Procedures
- 4 Various Performance Audits
  - Government Home Loans Program
  - Capital Equipment Purchases
  - Human Resources Management System (HRMS)
  - Selection of the ACT Government Banker
- 5 Visiting Medical Officers
- 6 Government Schooling Program
- 7 Annual Management Report for the Year Ended 30 June 1993
- 8 Redundancies
- 9 Overtime and Allowances

- 10 Family Services Sub-Program
- 11 Financial Audits with Years Endings to 30 June 1993

***Reports Published in 1994***

- 1 Overtime and Allowances - Part 2
- 2 Department of Health - Health Grants  
- Management of Information Technology
- 3 Public Housing Maintenance
- 4 ACT Treasury - Gaming Machine Administration  
- Banking Arrangements
- 5 Annual Management Report for Year Ended 30 June 1994
- 6 Various Agencies - Inter-Agency Charging  
- Management of Private Trust Monies
- 7 Various Agencies - Overseas Travel - Executives and Others  
- Implementation of Major IT Projects
- 8 Financial Audits with Years Ending to 30 June 1994
- 9 Performance Indicators Reporting

***Reports Published in 1995***

- 1 Government Passenger Cars
- 2 Whistleblower Investigations Completed to 30 June 1995
- 3 Canberra Institute of Technology - Comparative Teaching Costs and Effectiveness
- 4 Government Secondary Colleges
- 5 Annual Management Report for Year Ended 30 June 1995

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