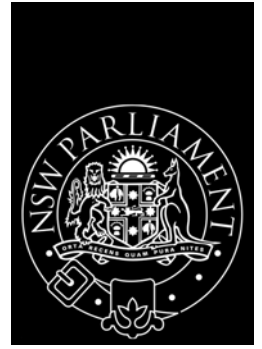


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Public Accounts Committee

Report on Environmentally Sustainable Procurement

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Terms of Reference

The Public Accounts Committee resolved on 9 December 2008:

That the Committee examine the extent to which NSW Government procurement practices comply with policies and guidelines relating to environmental management, having particular regard to the mainstreaming of ecologically sustainable development in procurement, including:

- a) inclusion of environmental considerations in procurement plans, tender specifications, selection criteria and decisions;
- b) assessment and implementation of cost neutrality;
- c) integration of environmental considerations throughout the procurement process;
- d) reviewing of procurement of products for which a recycled or more environmentally friendly alternative is available and removing any bias against environmentally beneficial products;
- e) validation of tenderers' environmental claims; and
- f) any other related matters.

Chair's Foreword

Amid growing concerns about our impact on the environment and the potential for limiting the opportunities of future generations, I am pleased to be able to table the Public Accounts Committee's report on the environmentally sustainable procurement practices of NSW government agencies.

As many of the community representatives who participated in our inquiry observed, the Government has a duty to lead by example. While the Government has made a commitment to procure goods and services in an environmentally responsible manner, the Committee came to the conclusion that the Government could do more to enhance performance on the ground. It should also be stressed, however, that the Committee was impressed by the many agency representatives who had clearly embraced environmentally sustainable procurement. These representatives repeatedly highlighted to the Committee that the true value of goods and services cannot be determined without taking into account environmental costs and benefits.

It was also clear to the Committee that a variety of non-government stakeholders are leading the way on this issue and that the Government would be foolish to ignore their expertise. Collaboration is essential and I hope the Government adopts the Committee's recommendations in this regard.

Change, as they say, begins at home. Here at Parliament House, staff are working with the Department of Environment, Climate Change and Water to decrease our consumption of energy, water and paper, and to produce less waste. Last year, Parliament House began a project to reduce energy and water consumption by 25 per cent, which will ultimately lower its annual carbon dioxide emissions by 2,358 tonnes. In addition, we will reduce our potable water consumption by 17,860 kilolitres. This highlights the significant impact each of us can have if we play our part, and I commend those government agencies that are working with us to make sure that our procurement practices are financially and environmentally responsible.

Finally, I thank all those who gave their time and expertise to assist the Committee. I also commend the Members of the Committee for their continued cooperative approach and I acknowledge the work of Mr Anthony Roberts, MP, who was with the Committee for most of this inquiry, and the Hon Paul McLeay, MP, who led the Committee until the inquiry's final stages.



Paul Gibson MP
Chair

List of Abbreviations

AIIA	Australian Information Industry Association
CEIs	Chief Executive's Instructions
COSBOA	Council of Small Business Organisations of Australia
DECCW	Department of Climate Change, Environment and Water
DET	Department of Education and Training
DEWHA	Department of the Environment, Water, Heritage and the Arts
DSTA	Department of Services, Technology and Administration
EPEAT	Electronic Product Environmental Assessment Tool
ESD	Ecologically Sustainable Development
GECA	Good Environmental Choice Australia
ISO	International Organization for Standardization
LGSA	Local Government and Shires Associations of NSW
MCA	Multi-criteria assessment
RFT	Request for tender
RTA	Roads and Traffic Authority
SCCB	State Contracts Control Board
SOCs	State Owned Corporations
STA	State Transit Authority
TEC	Total Environment Centre
WRAPP	Waste Reduction and Purchasing Plan

List of Recommendations

Recommendation 1

The Committee recommends that the Government ensure all procurement officers receive training on:

- i) incorporating environmental considerations into the request for tender development process;
- ii) incorporating environmental considerations into the tender selection process; and
- iii) engaging with suppliers on environmental issues.

Recommendation 2

The Committee recommends that the Government ensure that refresher training is available for all procurement officers on the latest developments in sustainable procurement.

Recommendation 3

The Committee recommends that the Government ensure that all purchasing staff receive training on:

- i) how to assess competing priorities (including price, safety, environmental credentials, etc) when buying products;
- ii) how to access information on the environmental performance of products; and
- iii) engaging with suppliers on environmental issues.

Recommendation 4

The Committee recommends that the Government establish an information sharing network for procurement and purchasing staff to enable, among other things, the exchange of information on best practice and soliciting of advice.

Recommendation 5

The Committee recommends that the Government remove the 'cost neutrality' principle from the Procurement Guidelines on Environmental Management and provide a clearer explanation of how 'value for money' is to be determined.

Recommendation 6

The Committee recommends that the Government establish whole-of-government and departmental leadership on the issue of environmentally sustainable procurement by identifying the persons or bodies that are best placed to promote the Government's goals.

Recommendation 7

The Committee recommends that the Government review how its procurement processes, including Greenbuy and the guidance available to staff, are being carried out so that it can ensure that staff are acting in accordance with its commitment to environmentally sustainable procurement.

Recommendation 8

The Committee recommends that the Government establish opportunities for ongoing dialogue with suppliers, including by:

- i) working together to develop sustainable solutions for agency procurement needs; and
- ii) obtaining feedback on the environmentally sustainable procurement policies and practices of government agencies.

Recommendation 9

The Committee recommends that the Government require all agencies responsible for procurement to provide an annual assessment of their procurement systems against the UK Sustainable Procurement Task Force's Flexible Framework (adapted to NSW where required).

Recommendation 10

The Committee recommends that the Government work with other governments, including the governments of Australia and New Zealand in particular, as well as suppliers, industry representatives, environmental organisations and other relevant stakeholders to harmonise environmentally sustainable procurement processes, standards and reporting requirements.

Chapter One – Introduction

OVERVIEW

- 1.1 The NSW Government has endorsed a range of environmental management practices in recognition of the fact that our natural environment is of vital importance to our quality of life, and that our economic, social and environmental objectives are inextricably intertwined. One part of the Government's broader commitment to Ecologically Sustainable Development (ESD) is its commitment to environmentally sustainable procurement.
- 1.2 According to the Australian Procurement and Construction Council, sustainable procurement is "a process whereby organisations meet their needs for goods, works and utilities in a way that achieves value for money on a whole of life basis in terms of generating benefits not only to the organisation, but also to society and the economy, while minimising damage to the environment."¹ Thus, environmentally sustainable procurement refers to just one component of an organisation's broader acquisition process.
- 1.3 For the purposes of this inquiry, the Public Accounts Committee has chosen to restrict the scope of its investigation to the environmentally sustainable procurement practices of government agencies with respect to goods and services, which it has defined to include Information and Communications Technology. As such, the Committee's inquiry does not focus on construction procurement, nor does it focus on the economic or social impacts of government procurement. Of course, the Committee is of the view that environmental, social and economic impacts should all be considered when determining the true value of a good or service.
- 1.4 The Committee has reviewed the various policies and guidelines relating to environmentally sustainable government procurement in NSW and these are set out in the following chapter. Chapters Three and Four focus on the environmentally sustainable procurement and purchasing practices of government agencies, while the key impediments to more environmentally sustainable procurement are discussed in Chapter Five. A review of the environmentally sustainable procurement initiatives of other jurisdictions is undertaken in Chapter Six and, finally, recommendations for facilitating compliance with the Government's environmentally sustainable procurement objectives are put forward in Chapter Seven.

PURPOSE

- 1.5 The Public Accounts Committee examines the efficiency and effectiveness of government activity. As the NSW Government has made a commitment to adopt environmentally sustainable procurement practices, the Committee has taken it upon itself to review how well the Government is fulfilling that commitment.

¹ Sustainable Procurement Task Force (Commissioned by the United Kingdom Government), quoted in Australian Procurement and Construction Council, *Australian and New Zealand Government Framework for Sustainable Procurement*, APCC, ACT, 2007, p. 5.

Introduction

- 1.6 Evidence received by the Committee in the course of its inquiry identified several reasons why environmentally sustainable government procurement practices matter. Among those reasons were the need for the NSW Government to:
- behave responsibly in the face of environmental degradation;
 - lead by example;
 - promote environmentally sustainable procurement practices across NSW;
 - support sustainable innovation and industries;
 - empower consumers;
 - catch up with best practice; and
 - generate financial savings over time.
- 1.7 According to Good Environmental Choice Australia (GECA), the NSW Government spends around \$10.5 billion per year on goods and services, which makes it one of the largest single purchasers in South East Asia.² In addition, the Local Government and Shires Associations of NSW (LGSA), whose purchasing processes are heavily influenced by State policies, says that local governments in NSW spend \$5 billion on goods and services each year.³ Several submissions pointed out that the State Government therefore has an obligation to use its purchasing power wisely by being mindful of the environmental consequences of its purchases, and to correct the current bias in favour of purchasing products with the lowest initial purchase price.⁴
- 1.8 When appearing before the Committee, Mr Leigh Martin of the Total Environment Centre (TEC) discussed the impact the Government's procurement practices would have on the practices of others:
- [T]he size of the market power that governments exert by the nature of their procurement spending is such that they have the capacity to drive market improvements that will result in progress towards sustainability throughout the economy. So not only can governments exert a positive influence by addressing their own impact but their actions have the capacity to drive further change throughout the community.⁵
- 1.9 One such impact would be the creation of an environment in which sustainable innovation and industries could grow.⁶ Another would be on the purchasing practices and empowerment of general consumers:
- Procurement is now seen as a much more important part of what we all need to do, so that people in the community know that their purchasing decisions can dramatically favour the environment... The most important responsibility for the Government is to

² Good Environmental Choice Australia, Submission to the Inquiry on Environmentally Sustainable Procurement, 12 March 2009, p. 1.

³ Local Government and Shires Associations, Submission to the Inquiry on Environmentally Sustainable Procurement, 13 March 2009, p. 1.

⁴ See, for example: Environmental Defender's Office, Submission to the Inquiry on Environmentally Sustainable Procurement, 23 February 2009, p. 1; Total Environment Centre, Submission to the Inquiry on Environmentally Sustainable Procurement, 12 March 2009, p. 1; and Good Environmental Choice Australia, Submission, p. 1.

⁵ L Martin, Committee Proceedings, 13 August 2009, p. 6.

⁶ Environmental Defender's Office, Submission, p. 1; and Total Environment Centre, Submission, p. 1.

lead green procurement, because it is the role of Parliament and the Government to act in the public good.⁷

1.10 While Mr Martin's submission stated that NSW has tended to lag behind other Australian jurisdictions when it comes to procurement policies and accountability measures, he informed the Committee at the hearing that NSW had recently improved.⁸ That said, the Committee was also told that there is little point in such comparisons as each State is struggling to incorporate sustainability considerations into its procurement practices.⁹ At the same time, witnesses provided the Committee with clear suggestions as to how NSW agencies could improve, and a review of other jurisdictions' initiatives illuminates a number of best practice approaches from which NSW could draw inspiration.

1.11 Several witnesses pointed out that environmentally friendly products often cost less money over the whole of their life than environmentally unfriendly products, and that they thus offer better value for money. For example, the Australian Information Industry Association's (AIIA) submission states:

Our expectation is not that ICT goods, which meet environment standards at present, will be relatively more expensive due to higher component and manufacturing costs and at smaller quantities than those that are not. Rather, if the total costs of ownership (TCO) are considered, environmentally designed products will use less power and thus can save costs over the life of the product. Over time, more and more environmentally sound ICT goods will come into production and achieve efficient market penetration and acceptance.¹⁰

PROCESS

1.12 On 9 December 2008, the Public Accounts Committee resolved to hold an inquiry into the environmentally sustainable procurement practices of government agencies. The terms of reference stipulated that the Committee would examine:

the extent to which NSW Government procurement practices comply with policies and guidelines relating to environmental management, having particular regard to the mainstreaming of ecologically sustainable development in procurement, including:

- a) inclusion of environmental considerations in procurement plans, tender specifications, selection criteria, and decisions;
- b) assessment and implementation of cost neutrality;
- c) integration of environmental considerations throughout the procurement process;
- d) reviewing of procurement of products for which a recycled or more environmentally friendly alternative is available and removing any bias against environmentally beneficial products;
- e) validation of tenderers' environmental claims; and
- f) any other related matters.

⁷ I Higgins, Committee Proceedings, 13 August 2009, p. 11.

⁸ L Martin, Committee Proceedings, p. 6.

⁹ S Little, Committee Proceedings, 13 August 2009, p. 2.

¹⁰ Australian Information Industry Association, Submission to the Inquiry on Environmentally Sustainable Procurement, 13 August 2009, p. 11.

Introduction

- 1.13 The Committee called for submissions by advertising in *The Sydney Morning Herald* on 2 February 2009, placing a notice on the Department of Commerce's eTendering website and the Parliament's website and by writing to Ministers, lead agencies, government suppliers, non-governmental organisations, industry groups, and lobbyists. A list of the 18 submissions received by the Committee appears at Appendix D, and copies of the submissions can be downloaded from the Committee's website.
- 1.14 Public hearings were held at Parliament House on 12 and 13 August 2009. The Committee heard from 27 representatives from 15 different organisations, a list of which can be found at Appendix E. The Committee's website contains transcripts of the hearings.

Chapter Two – Policy Framework

AGENCY RESPONSIBILITY

- 2.1 NSW Treasury is responsible for procurement policy, the Department of Services, Technology and Administration (DSTA) is responsible for procurement practice, and the Department of Climate Change, Environment and Water (DECCW) is responsible for driving, supporting and monitoring sustainability initiatives. Responsibility for procurement implementation and outcomes rests with individual agencies.¹¹

Treasury

- 2.2 NSW Treasury is in charge of the State's fiscal strategy, including the Government's procurement policy. As Mr Richard Timbs, the Director-General of the Office of Infrastructure Management within NSW Treasury, informed the Committee, "Treasury's mission is to promote State resource management to achieve better public services and a stronger New South Wales economy," and the Government's procurement policy is an important part of its capacity to accomplish those aims.¹²
- 2.3 Underpinning the procurement policy is the concept of best value for money, which is defined as the benefits achieved compared to whole-of-life costs. The Government's emphasis on incorporating environmental concerns into the procurement process means that agencies may "pursue environmental benefits in service delivery where this is cost and performance effective."¹³
- 2.4 Also run by NSW Treasury is the Gateway Review System. This system, which applies to high profile and/or high cost procurements, seeks to ensure that a review is conducted at each of the six key decision points during the procurement process.¹⁴ Seven key success factors are considered as part of each review, including sustainability.¹⁵ The assessment of a project's sustainability:
seeks to confirm that the project is expected to have social, economic and environmental benefits, includes a strategy for procurement that will maximise the benefits and minimise negative impacts, [and] includes a plan as to how the benefits will be achieved and how they will be measured.¹⁶

¹¹ NSW Treasury, NSW Government Submission to the Inquiry on Environmentally Sustainable Procurement, March 2009, p. 2.

¹² R Timbs, Committee Proceedings, 12 August 2009, p. 1.

¹³ As above.

¹⁴ Department of Commerce, *Gateway Review Toolkit*, 2006, p. 6, accessed 1 September 2009, at <http://www.nswprocurement.com.au/Government-Procurement-Frameworks/Gateway-Review/Gateway-Review-Toolkit/Gateway-Toolkit_2006_dnd.aspx>.

¹⁵ Department of Commerce, *Gateway Reviews and Key Success Factors*, p. 1, accessed 1 September 2009, at <http://www.nswprocurement.com.au/Government-Procurement-Frameworks/Gateway-Review/Gateway-Review-Toolkit/Gateway-A3-Map-Handout_dnd_2.aspx>.

¹⁶ R Timbs, Committee Proceedings, p 1.

Department of Services, Technology and Administration

- 2.5 According to the Director-General of DSTA, Mr Graeme Head, the role of the Department with respect to procurement is essentially an operational one. At the hearing, Mr Head informed the Committee that DSTA facilitates two types of procurement. One is for goods and services that are commonly used across the public service, and the other is for client-specific products that have a highly specialised use, such as a particular piece of medical equipment for a hospital.¹⁷
- 2.6 For commonly used goods and services, the State Contracts Control Board (SCCB), which is a statutory entity established under the Public Sector Management Act, is responsible for soliciting tenders and entering into contracts with successful suppliers. Mr Head explained these processes to the Committee:
- When going to the marketplace prior to the board setting a procurement strategy, we would have consulted heavily with agencies as part of that client reference group and we would communicate to the board the issues, priorities, concerns of agencies and how we have taken account of those in recommending a procurement strategy, but then it is the board that deliberates and determines what that strategy is. We are obliged to issue a request for tender that is in line with the strategy agreed by the board...
- The board alone is charged with the purchase of goods and services for the sector. Individual agencies purchase goods and services, but that is as a result of approval for them to do so by the board. When there is a board contract in place, a period contract, agencies are compelled to purchase from the contract.¹⁸
- 2.7 Thus, while the SCCB ultimately determines what a request for tender (RFT) should include and which suppliers best meet the requirements of an RFT, DSTA is responsible for the pre-RFT consultation, and for informing the board of the issues, priorities and concerns of agencies. DSTA is also responsible for establishing the tender evaluation committee, which is "made up of people from a range of different government agencies who are all subject to the tendering code of conduct," and it maintains the catalogue of SCCB-approved products from which agencies must buy.¹⁹
- 2.8 According to Mr Head, environmental considerations are an important part of the RFT specification development process. In recognition of this, DSTA tries to:
- bring together the right mix of people who understand both all of the broad policy objectives that government has established around a range of different issues as well as the people who understand the technical aspects of the use of these products to make sure that the specifications are developed, taking a comprehensive account of the board's obligations to meet government policy and everyone's obligations to produce value for money for citizens.²⁰
- 2.9 However, the procurement process for client-specific specialised products is different. In that instance, it is the client agency that develops the specifications, although DSTA provides guidance on "broader government policy initiatives that ought to be considered if appropriate in that context."²¹

¹⁷ G Head, Committee Proceedings, 12 August 2009, pp. 12 – 13.

¹⁸ As above, pp. 14 and 16.

¹⁹ As above, p. 14.

²⁰ As above, p. 18.

²¹ As above, p. 13.

Department of Environment, Climate Change and Water

2.10 DECCW is responsible for a number of initiatives that promote environmentally sustainable procurement practices across government agencies. It is the lead agency for the Waste Reduction and Purchasing Plan (WRAPP), and for the Sustainability Policy of which the Plan is a part. The Executive Director for Departmental Performance, Management and Communication at DECCW, Mr Timothy Rogers, told the Committee:

we think it is important to lead by example, and part of the Government's Sustainability Policy is to put government in a position where it does provide an example to others in terms of purchasing arrangements.²²

2.11 Sustainability Advantage is another DECCW initiative. According to Mr Rogers, Sustainability Advantage:

enables organisations at the executive level to sit down and do a diagnostic of their own sustainability performance across the full suite of the operations of the organisation, including staff engagement or supply chain, resource efficiency and climate change. That program then enables us to provide advice about how to then move into either adopting particular policy within the organisation, running resource efficiency—and that may include doing energy, water and other audits in order to get a benchmark—and then to implement programs within the organisation to improve their overall sustainability performance within the organisation.²³

2.12 Providing ongoing support to DSTA and local governments to make their procurement practices more environmentally sustainable is also an important part of DECCW's role. In relation to the State Government contract system run by DSTA, Mr Rogers told the Committee that DECCW provides expert advice throughout the tendering process. DECCW also provides financial and practical support for the Sustainable Choice Program, which promotes knowledge and skill sharing as a means of increasing the level of sustainable purchases made by local governments.²⁴

KEY POLICIES

Procurement Policy

2.13 The Procurement Policy lists the laws, policies and agencies that govern procurement, and provides a ten-step process for the procurement of construction, goods and services, and ICT.²⁵ While it applies to all government departments, statutory authorities, trusts and other government entities, State Owned Corporations (SOCs) are exempt.²⁶ As Mr Timbs highlighted, however, such corporations are "encouraged to adopt those aspects of the reforms consistent with their corporate intent."²⁷

²² T Rogers, Committee Proceedings, 12 August 2009, p. 19.

²³ As above, p. 23.

²⁴ As above, p. 19.

²⁵ NSW Treasury, *Procurement Policy*, July 2004, accessed 1 March 2009, at <http://www.treasury.nsw.gov.au/__data/assets/pdf_file/0004/3955/tpp04-1.pdf>.

²⁶ As above, p. 4.

²⁷ R Timbs, Committee Proceedings, p. 1.

Policy Framework

2.14 The fundamental objective of the Policy is “to ensure that government procurement activities achieve best value for money in supporting the delivery of government services,” and its key principles are value for money; efficiency and effectiveness; probity and equity; and effective competition. The Government’s economic, environmental and social objectives are said to underpin the policy, as is its commitment to ethical procurement practice, effective procurement capacity, and monitoring and improving agency performance.²⁸

Code of Practice for Procurement

2.15 Within the Procurement Policy is the Code of Practice for Procurement. The aim of the Code is “to achieve best value for money in the expenditure of public funds while being fair, ethical and transparent”, and it establishes standards of behaviour for agencies, tenderers, service providers, employer and industry associations, and unions. Among the standards of behaviour are honesty and fairness, accountability and transparency, and adherence to one’s legal obligations.²⁹

2.16 The Code stipulates that all parties should demonstrate a commitment to improvement and best practice in relation to a number of areas including environmental management. Furthermore, whole-of-life costs and the tenderer’s environmental management practices and performances are listed as “critical factors” that ought to be considered when evaluating tenders. If relevant to the procurement, environmental development initiatives are another critical factor.³⁰

2.17 Appendix A of the Code further explains what is expected of parties with respect to environmental management. While service providers should have a demonstrated commitment to environmental management, all parties should:

- identify the environmental opportunities and risks of their activities;
- realise those opportunities, manage those risks, and protect the environment;
- encourage responsible waste management; and
- support the effective use of scarce resources.³¹

Sustainability Policy

2.18 The Sustainability Policy “outlines how the Government will lead by example in sustainable water and energy use, reducing greenhouse gas emissions, waste and fleet management and sustainable purchasing.”³² Comprising five different strategies, including a fleet management strategy and an office building strategy, the Policy sets targets and establishes a reporting framework in relation to each of the strategies. The health facilities strategy, for example, stipulates that the Department of Health must report on its obligation to adopt a sustainability strategy that lists sites where the greatest energy savings can be obtained.³³

2.19 In existence since 1997, WRAPP was subsumed into the Sustainability Policy in 2008. WRAPP requires government agencies and SOCs to reduce waste in relation

²⁸ NSW Treasury, *Procurement Policy*, p. 4.

²⁹ As above, pp. 12 – 14.

³⁰ As above, pp. 15 – 16.

³¹ As above, p. 21.

³² Department of Environment and Climate Change, *Sustainability Policy*, 2008, p. 1, accessed 1 March 2009, at <<http://www.environment.nsw.gov.au/resources/government/08453SustainabilityPolicy.pdf>>.

³³ As above, pp. 1 – 9.

to paper products, office equipment, vegetation material, and construction material. It also stipulates that budget dependent agencies must prioritise products with recycled content “where they are cost and performance competitive” and purchase specific products with particular energy ratings where they are “available and fit for purpose.” Agencies with more than 200 staff have to provide information on their performance in their annual reports and report to DECCW every two years. Agencies with less than 200 staff need only provide information on their performance in their annual reports every three years.³⁴

KEY GUIDELINES

Procurement Guidelines on Environmental Management

- 2.20 The Procurement Guidelines are “not intended to be prescriptive but constitute a guide to understanding the procurement policy and how it should be implemented by agencies...”³⁵ As such, they need only be incorporated into existing procurement practices “as appropriate,” and “[t]he extent to which these procurement initiatives are applied should be determined on a case by case basis.”³⁶ Responsibility for training procurement personnel about the Guidelines rests with individual agencies.³⁷
- 2.21 The Guidelines state that all agencies are to “mainstream Ecologically Sustainable Development in procurement”, and that this “requires all agencies as well as service providers to improve their management of environmental and energy practices and to seek alternatives to waste disposal wherever possible.”³⁸
- 2.22 Procurement decisions are to be based on the principles of ‘value for money’ and ‘cost neutrality’. When considering value for money:
agencies are to base procurement decisions on ‘value for money’ over the life of products rather than ‘lowest initial cost’ and give preference to, and purchase products with, a low adverse environmental impact. Value for money includes the cost of goods and services, whole of life costs, innovation and additional benefits such as meeting the Government’s economic, social and environmental policy objectives.³⁹
- 2.23 When considering cost neutrality, agencies are to “substitute the use of products with lower environmental impact costs where the overall effect on the agency’s business is cost neutral or favourable.”⁴⁰ Examples include “where the product with lower environmental impact costs the same as, or less than the alternative”, and “where tangible benefits, such as public perception, are identified as having value equivalent to the extra cost of the product.”⁴¹

³⁴ As above, p. 7.

³⁵ Department of Commerce, *Procurement Guidelines on Environmental Management*, September 2006, p. 1, accessed 1 March 2009, at <<http://www.nswprocurement.com.au/PDF/Policy/Environmental-Management.aspx>>.

³⁶ As above.

³⁷ As above.

³⁸ As above, p. 2.

³⁹ As above, p. 3.

⁴⁰ As above, p. 4.

⁴¹ As above.

Policy Framework

- 2.24 Four basic principles to be used in the procurement process are avoid, reduce, reuse and recycle.⁴² With these in mind, agencies ought to review procurement practices, eliminate bias against environmentally friendly products, and emphasise their commitment to buying green.⁴³
- 2.25 In relation to eliminating bias, the Guidelines state:
The policy does not require agencies to purchase recycled or low waste products if these do not meet value for money criteria. Similarly agencies are not required to purchase products with specified recycled content... However, agencies are expected to purchase the product with the highest proportion of recycled content whose cost and performance are competitive with the non-recycled alternative. If an 80% and a 60% recycled product are equal on cost and performance grounds, agencies are expected to purchase the 80% recycled product.⁴⁴
- 2.26 The Guidelines also provide guidance on specific office related purchases including stationary, equipment, photocopiers and computers.⁴⁵ For example, with respect to photocopiers, the Guidelines state that agencies ought to “[c]hoose Energy Star rated copiers.”⁴⁶

TERMINOLOGY

- 2.27 During the course of the inquiry, it became clear to the Committee that the meaning of several key concepts within the policies and guidelines was contested. ‘Value for money’, ‘cost neutrality’ and ‘whole-of-life costs’ were among the terms that meant many things to many people.
- 2.28 Determining which of the available products offers the most value for money can involve a simple comparison of the initial purchase price, or it can involve a complex comparison of ongoing financial and non-financial costs and benefits over the life of the product. Determining whether a more environmentally friendly product costs the same as, or less than, a less environmentally friendly product, is similarly influenced by what ‘cost’ means. There are many elements that may be taken into account when determining a product’s whole-of-life cost, and decisions must be made regarding which costs are sufficiently significant and able to be assessed. Are acquisition, maintenance and disposal costs enough, for example, or should government procurement officers also consider broader costs to the community, such as employment impacts in rural communities?
- 2.29 As the following chapters demonstrate, all parties involved in the procurement process are grappling with these questions. The challenge for government is to provide sufficient guidance on all of these concepts, while also ensuring they remain flexible and user-friendly enough to be effective. In Chapter Seven, the Committee makes suggestions as to how this can be achieved.

⁴² As above, p. 5.

⁴³ As above, pp. 5 – 9.

⁴⁴ As above, p. 6.

⁴⁵ As above, pp. 10 – 14.

⁴⁶ As above, p. 12.

Chapter Three – Procurement Practice

- 3.1 While purchasing refers to the act of acquiring goods or services, procurement refers to the process that supports that act, including steps such as tender specification and supplier evaluation. In this chapter, the Committee will explore how well government agencies are performing their procurement obligations, before going on to explore how well they are fulfilling their purchasing obligations.
- 3.2 When it comes to commonly used goods and services in NSW, DSTA is in charge of procurement and individual agencies are in charge of purchasing. In practical terms, this means that DSTA will enter into contracts with several suppliers for a particular type of good, such as office equipment, and agencies must then purchase from the list of approved products contained within those contracts.
- 3.3 Agencies that demonstrate a need and capacity to conduct their own procurement processes may be granted accreditation to do so. This is the case with the Roads and Traffic Authority (RTA), for example, which faces a number of environmental challenges. According to Mr Tout, the Director of Corporate Services for the RTA:
- It is not a one-size-fits-all solution. If you look at the bridges over the Karuah mangroves, for example, there was an issue of trying to preserve an environment and not endanger it by building a bridge. The real issue there was a design solution in building the bridge in situ on the bank and pushing out over the mangroves so that you do not impact on the mangroves themselves. In another case, if you pick up the Kiama bypass, the solution there was that there was an opportunity to use hundreds of thousands of tonnes of crushed slag as part of the road base. That was a different opportunity in that particular project...⁴⁷

REQUEST FOR TENDER DEVELOPMENT PROCESS

- 3.4 Ms Suzanne Little from the Sydney Metropolitan Catchment Management Authority demonstrated how important the RFT development process can be in terms of securing environmentally and financially beneficial outcomes. Ms Little, who was the Environmental Director for the Sydney Olympic Games, told the Committee:
- The way it was particularly done well in the Olympics was that during some life-cycle assessment type analysis, before there were any drawings or any request for tenders it was realised that the largest material, in terms of dollars as well as volume, that would be needed to build the Olympic Stadium over a period of its lifetime, which is 30 years, would not be concrete or steel or glass, it would be water. With that realisation then the request for tender asked for water conservation to be part of the structure. As a result, there are now four very large reservoirs around the structure built into it and the roof serves as a catchment to fill those reservoirs. We are talking megalitres of water stored within the building.⁴⁸
- 3.5 It is through the RFT development process that agencies have the opportunity to encourage innovation, set standards that promote long-term rewards, and solicit information about the environmental credentials of the products on offer. As Ms Little

⁴⁷ R Tout, Committee Proceedings, 13 August 2009, p. 44.

⁴⁸ S Little, Committee Proceedings, p. 4.

observed, “[t]he difficult thinking and the serious work is in the writing of the requests for tender.”⁴⁹

- 3.6 According to Ms Little, the water conservation measures incorporated into the design of the Olympic Stadium came about because the request for tender encouraged innovation. Ms Little informed the Committee that:

During the request for tender the people involved, which were both engineers and procurement professionals as well as environmental scientists, did not prescribe what they wanted. They asked for achievements to be delivered, but they did not tell the construction industry how to build. I think that difference between asking what you want as opposed to telling people how to deliver what you want has been a big improvement in tendering in general in recent years.⁵⁰

- 3.7 Mr Ari Palandjian, a Product Marketing Manager for Hewlett-Packard, provided the Committee with additional examples of the kinds of environmental and financial savings that can be generated through innovative design:

Today the servers are about 30 per cent more efficient than a year ago, and they perform more than twice the capability of the servers from a year ago. The types of conversations we have with our customers are to look at their asset fleet. I can give a perfect example. A customer has a server fleet that is three to four years old. If you can imagine a data centre with 12 racks of fully populated servers, they can replicate that same computer power today with one rack of server. If you can imagine the power savings between the equipment of four years ago and that of today, it is quite dramatic... [T]here is also capital expenditure from reducing the fleet of servers, reducing maintenance, reducing power consumption, reclaiming lost floor space and real estate that may also happen within a data centre, and so on.⁵¹

- 3.8 Unfortunately, Mr Palandjian informed the Committee that, in his experience, NSW government procurement practices did not encourage such innovation:

We find as a vendor that the tender process and specification process is quite prescriptive. Basically, it comes down to a price discussion at the end of the day. What is not reflected in the tender process itself is the difference in cost associated with designing. I will reference the research and development comment I made previously, the difference in cost between designing it and manufacturing a product that is more energy efficient than others. From the criteria or the evaluation criteria that is managed through the tender process it is quite restrictive and limits the value that the vendor can actually deliver to government.⁵²

- 3.9 Mr Palandjian went on to explain to the Committee that the emphasis on price in the tendering process means that his company often proposes two products – one that the company recommends, and one that “meets the tender requirement to its minimum level.”⁵³ When asked by Mr McLeay whether the NSW Government was “pushing the envelope” in terms of sustainable outcomes, Mr Palandjian replied, “[W]e come down to the requirements of the benchmark that the Government actually sets. We have products that far exceed that.”⁵⁴

⁴⁹ As above.

⁵⁰ As above.

⁵¹ A Palandjian, Committee Proceedings, 13 August 2009, p. 31.

⁵² As above.

⁵³ As above, p. 32.

⁵⁴ As above.

- 3.10 Several other witnesses provided similar accounts of innovation and long term benefits being sacrificed for the lowest initial purchase price. Ms Radisich from the Council of Small Business Organisations of Australia (COSBOA) and Mr Sean Casey, Intel Australia's Government and Commercial Business Development Manager, spoke of the general tendency of governments to prioritise price.⁵⁵ Mr Ramsay Moodie, a former Director at Fuji Xerox, provided the Committee with a recent example in NSW:

The multifunctional device contract... had 11 suppliers in it up until December [2008]. It was cut back to three on a very aggressive price hurdle that was a case of, frankly, it is not a sustainable price and it does not adequately take account of the fact that there are many other things that you need to consider in getting the right result. You have got to consider total cost of ownership and other implications. It is not all in the print price as it was in this case, it is in how well this product interfaced with some of your other technologies, how well does it enable you to make the transition from hard documents to soft documents, a whole lot of issues like that.⁵⁶

- 3.11 A related criticism of the RFT development process was the failure of the published RFT to solicit and thus capture adequate environmental information about the products on offer. The LGSA's submission stated:

The Associations receive regular feedback from procurement officers in councils reporting that it is virtually impossible to locate sustainable products using the Government Procurement Contracts. In many instances this results in councils choosing to conduct their own tender process where specific environmental criteria can be integrated into the tender and evaluation process.⁵⁷

- 3.12 Mr Anthony Roberts MP asked Mr Seb Crawford, a Project Officer at LGSA, to provide the Committee with an example of when a council had conducted its own tender process in order to obtain environmental data that the State Government had not captured. Mr Crawford told the Committee:

I can give you an example of two recent tender processes that I am aware of: Ashfield Council and Campbelltown City Council, and the sorts of things that they considered in their tender process. So they certainly looked at compatibility with recycled papers; they looked at whether or not the suppliers participated in a toner cartridge recycling program; they included things like air emissions, ozone emissions and VOC emissions from those units when they are in use; the durability of the units, how long they would last; to what extent the suppliers were able to work with them as a council to keep those units working longer, so longer life; take back at end of life, so it was not just about taking them back but asking questions about recycling, about what happens with recycling, where it is recycled; packaging, what kind of packaging the units come in and what happens to the packaging after it has been discarded; ISO 14001, which is a universal international environmental standard; stipulating double-sided printing; stipulating that the units were able to default from black and white to colour and from higher resolution to low resolution; and mechanisms to use less ink or cheaper inks and those sorts of things. That is an example of the sorts of things those tenders included.⁵⁸

- 3.13 Representatives from Treasury, DSTA and DECCW provided a different account of the extent to which environmental concerns are integrated into the development of RFTs. During the Committee's hearings, Mr Roberts asked the Director-General of

⁵⁵ J Radisich, Committee Proceedings, 13 August 2009, p. 28; and S Casey, Committee Proceedings, 13 August 2009, p. 25.

⁵⁶ R Moodie, Committee Proceedings, 13 August 2009, pp. 25 – 26.

⁵⁷ Local Government and Shires Associations of NSW, Submission, p. 2.

⁵⁸ S Crawford, Committee Proceedings, 13 August 2009, p. 38.

Treasury's Office of Infrastructure Management to respond to suppliers' claims that there were few incentives to provide sustainable products. Mr Timbs responded:

the incentives are effectively contained through the procurement process itself, starting with the guidelines and expectations that Treasury sets for agencies. It is made very clear in those guidelines, and reaffirmed through the gateway review process, that sustainability is an integral component in procurement. Then, when the agencies actually go through the procurement process, they would be making it clear to bidders and tenderers that there would be a sustainability component or element of the decision-making process.

Provided that that is spelt out sufficiently and made clear, I would believe that it would be in the best self-interest of bidders and tenderers to actually provide sustainable goods and services as part of their bids in the attempt to win the business.⁵⁹

3.14 When Mr John Turner MP asked the Director-General of DSTA to comment on LGSA's claim that the State Government Contracts, from which council purchasing officers buy, do not contain adequate environmental information, Mr Head responded:

I would think that across the range of contracts that are currently in place through the State Contracts Control Board the more recently developed contracts would have more refined requirements in that area. That would not be true for some of the older contracts... In fact, in the tender processes that were underway recently there were specific mandatory environmental requirements in a range of different elements in the contract. It may be that one of the areas of work that the board and the department, in operating the board system, need to look at is the promotion of these features of new contracts when they are entered into.⁶⁰

3.15 Mr Head assured the Committee that DSTA puts a lot of effort into ensuring that all relevant considerations are adequately taken into account throughout the RFT development process. According to Mr Head:

A very, very important part of the formulation of the request for tender is, in fact, that the development of the specifications and environmental considerations, along with other considerations, can all be looked at in the specification component of the process... We think it is a fairly rigorous process but it is true that everybody is learning about these things. The factoring in of environmental considerations is something that has been undertaken increasingly over the last 25 years at least, but everybody is learning along the way.⁶¹

3.16 One Department whose staff frequently take part in DSTA's specification-development consultations is DECCW.⁶² While the evidence of Mr Rogers, an Executive Director at DECCW, indicated that environmental sustainability is an important consideration with respect to procurement, it also indicated that it would be a mistake to elevate environmental sustainability above all else. Mr Rogers spoke of the purchase of pharmaceuticals, for example, where environmental impacts are of limited, if any, concern.⁶³

3.17 That said, Mr Rogers pointed out that where environmental concerns are relevant, early intervention in the procurement process is vital:

⁵⁹ R Timbs, Committee Proceedings, p. 2.

⁶⁰ G Head, Committee Proceedings, p. 12.

⁶¹ As above, p. 18.

⁶² As above, p. 17.

⁶³ T Rogers, Committee Proceedings, pp. 22 – 23.

[W]e have seats on specific tender evaluation committees that we have an interest in. We have one on the waste tender that is being done at the moment. We have been on the car tender. So there are specific ones that, from our point of view, are key that we have been part of. We have engaged not only at the tender evaluation stage but we have been engaged at the tender design stage. The tender evaluation stage is a bit late to come in if the tender has not been designed to capture the information.⁶⁴

TENDER EVALUATION PROCESS

Assessing value

3.18 Underpinning the tender evaluation process are the concepts of ‘whole of life costs’, ‘value for money’ and ‘cost neutrality’. During its hearings, the Committee sought to clear up some of the confusion surrounding what these terms mean, and the extent to which they encourage procurement officers to consider environmental criteria when selecting the products and suppliers that offer the best value.

3.19 Mr McLeay asked Treasury’s representative to clarify what is meant by value for money and whole of life costs, and how these terms assist procurement officers to have regard for sustainability concerns. Mr Timbs stated:

Whole-of-life value for money is the key determinant, the key criterion in determining successful procurement decisions. Sustainability is one of the factors and one of the criteria that is considered, along with other social, economic and fiscal considerations as well. So when the various criteria are considered in totality the methodology that is used to combine all of them together and make a decision is over a life cycle or a whole-of-life timeframe.⁶⁵

3.20 Mr Peter Draper MP also questioned Mr Timbs on whole of life costs, noting that the term could potentially refer to “financial cost to the purchasing agency, the cost to the Government as a whole or the economic costs to New South Wales.” Mr Timbs informed the Committee that Treasury has issued guidelines for economic appraisal that spell out the costs that ought to be considered. According to Mr Timbs, such costs include “wage costs, power and utility costs, general pass-on costs to firms and households and those types of things.”⁶⁶

3.21 In addition, Mr Timbs observed that Treasury works closely with agencies to ensure that they are up to date with current policies and thus agencies would be aware of the guidelines for economic appraisal.⁶⁷ On the awareness among agencies of the need to incorporate environmental concerns into the tender evaluation process, Mr Timbs stated:

Environmental and sustainability considerations are not secondary to but part of the overall decision-making process. Again, the guidelines do not give quantitative determinations or weightings on how sustainability factors should be taken into account compared to other factors because it very much depends on case-specific circumstances. But it is clear that sustainability considerations are very much an integral part of the decision-making process, not a secondary consideration.⁶⁸

⁶⁴ As above, p. 23.

⁶⁵ R Timbs, Committee Proceedings, p. 7.

⁶⁶ As above, p. 4.

⁶⁷ As above.

⁶⁸ As above, pp. 7 – 8.

- 3.22 Mr Timbs did not provide similarly clear guidance when it came to cost neutrality. The former Chair's question to Mr Timbs on this issue highlights the problem that many observers have when it comes to interpreting the Guidelines on Environmental Management. Furthermore, Mr Timbs' response highlights the problems many observers have when seeking clarity on these issues:

CHAIR: Under your environmental management guidelines, chapter 3 concludes with cost neutrality, stating:

In order to balance environmental considerations within the value for money, the procurement process should also be based on the concept of cost neutrality—in other words, substituting the use of products with lower environmental impact costs where the overall effect on the agency's business is cost neutral or favourable.

From my reading of that, if you have two products of the same price you should choose the one that has the better environmental outcome or the better environmental one if it is cheaper. Given this is the final statement in that chapter, if one product has better environmental impacts and is 1¢ more expensive, it does not allow agencies to purchase it. Can you clarify that statement?

Mr TIMBS: I should note that this particular policy is in fact a policy of the Department of Services, Technology and Administration... I am advised that this is a guideline, not an actual policy. It is a guideline as determined by the former Department of Commerce. So, therefore, it is not a Treasury policy or a Treasury guideline. Coming back to my previous point, I would expect that the sustainability element in so far as goods and services and their environmental impact would be part of the overall consideration of a procurement decision, taking into account the various factors that would be considered, including economic factors, applied over a whole of life.⁶⁹

- 3.23 In contrast to Mr Timbs' statements, the Committee was repeatedly told by non-government witnesses that the initial purchase price was the predominant, if not the sole, concern of public sector procurement officers in NSW. Echoing Mr Palandjian from Hewlett Packard, who said that "it comes down to a price discussion at the end,"⁷⁰ AIIA's submission stated:

AIIA welcomes the inclusion of environmental and sustainability considerations in the procurement process... However, these considerations are to be considered in the assessment of 'value for money' and AIIA, on the advice of its members, has had long-held concerns over the NSW Government agencies giving little weight to 'value for money' evaluations and instead make decisions based on 'lowest prices'.⁷¹

- 3.24 When asked by the Hon Grant McBride MP to comment on AIIA's assertion that the Government should instead implement best practice, Mr Moodie expanded on these observations:

I had a chat yesterday to... [Fuji Xerox's] New South Wales manager for government, and asked him what was he seeing in recent times in terms of recognition of sustainability in a deal across the desk. His response was, "The eyes just glaze over. Price is the only relevant concern." I guess that has always been our concern at Fuji Xerox. We have lobbied this issue of sustainable procurement by government for a long time... Our position always has been driven by the fact that you have a lot of companies out there in the community wanting to do the right thing and we need to drive a wedge between those that are prepared to be sustainable and those that are not. Government

⁶⁹ P McLeay and R Timbs, Committee Proceedings, 12 August 2009, p. 8.

⁷⁰ A Palandjian, Committee Proceedings, p. 31.

⁷¹ Australian Information Industry Association, Submission, p. 11.

procurement practice was a very powerful tool for creating that wedge. As we move forward, perhaps hopefully into a regulated extended producer responsibility regime, that will go away to some extent, but it is still a powerful drive. Government business is a big element of business. If it is buying sustainably, that is a powerful driver for the sustainability agenda.⁷²

- 3.25 While Mr Palandjian rejected the assertion that all agencies in all circumstances focus on price to the exclusion of environmental sustainability, his evidence did support the notion that there is a lack of guidance for tender evaluators on the prominence environmental considerations should be given:

the people we typically deal with are the people who are evaluating the tender response. They are typically contract negotiators. I guess they are good at negotiating on terms and price—they are very good at negotiating on price! That is what it comes down to...

Let me say this, if I may: if there was guidance coming from above in terms of more stringency or other variables for the contract administrators and negotiators to consider outside the price, that would help to redirect their focus. I think it is a good thing.⁷³

- 3.26 Although the Procurement Policy states that its fundamental objective is to ensure that government procurement activities achieve best value for money, the 'cost neutrality' principle in the Guidelines have undoubtedly caused confusion. The testimony of Ms Loretta Johnson, the General Manager of Policy and Government Relations at AIIA, illustrates this point:

In relation to cost neutrality, we welcome the recognition in the guidelines that cost neutrality is more than mere product-to-product cost comparison and in fact must consider total cost of ownership and amortisation. If, however, the concept of cost neutrality can be used as an excuse not to consider the more sustainable product on the basis of price alone, AIIA would be concerned.⁷⁴

- 3.27 Mr Martin's submission on behalf of the Total Environment Centre raised similar concerns. Of Australia more generally, Mr Martin stated that "[c]urrent value for money calculations... fail to consider the long term benefits and foregone costs (such as environmental repair) associated with choosing more sustainable products..."⁷⁵ In relation to NSW, Mr Martin observed:

the value of the [G]uidelines is weakened by requirements that environmental considerations within the value for money requirement should be based on cost neutrality... [because this means that] price is likely to remain the dominant factor in procurement decisions.⁷⁶

- 3.28 Several witnesses noted that moving beyond the initial purchase price would save money as well as the environment. Mr Casey told the Committee:

I work with a lot of government and commercial accounts and one of the things we talk about is really this concept also of the total cost of ownership of the platform. We estimate that it can be three to five times the acquisition costs. If you are looking for room for improvement or some ideas, in a procurement process you have that visibility of decisions you are making about how they impact the bigger costs, which is the deployment cost in the field and managing the device. I think the procurement desk

⁷² R Moodie, Committee Proceedings, p. 23.

⁷³ A Palandjian, Committee Proceedings, p. 33.

⁷⁴ L Johnson, Committee Proceedings, 13 August 2009, p. 21.

⁷⁵ Total Environment Centre, Submission, p. 8.

⁷⁶ As above, p. 5.

seems to be price driven, but I think you need to look at expanding that model and asking what is the total cost of ownership over the life of the product and get a better measure of that. To give you some examples of what people are doing, our government department is looking at adding the energy cost of running the device as the price of the device. But I think that can be expanded even further in your management, that is, the power of management, remote management, travel, support and all that stuff. When you factor in that expanded view, you might start to get a better return on the dollars for government. But it is not just the acquisition cost. It might be a higher cost, but it is really understanding the savings. That forces you to reach into the cost in the departments. To me the two are quite separate. You have the procurement, it goes over to the department level and then they have to manage the devices.⁷⁷

3.29 Two methods for determining a product's true value were brought to the attention of the Committee. Ms Little told the Committee about life cycle analysis:

It is quite a scientific exercise. There are no dollar units involved; they are in units of mass, length and time. That analysis is done by a technical or scientific person in accordance with an international standard. What comes out of that is an understanding of the energy, water, waste, biodiversity and ozone depletion—quite a large number of factors that could be affected by whatever it is the analysis is looking at. It can be very simple... [In] my manual, for the purposes of the training I give a life cycle analysis of a paper cup versus a plastic cup. So, it can be done on a very simplistic level or it can be done comparing two types of buildings. That is a very technical exercise.⁷⁸

3.30 When Mr Turner asked Ms Little about the extent to which individual preferences could influence the outcome, Ms Little stated:

Being a scientific tool, the first thing is that there is no weighting. That can be done later during the selection process in procurement, but while it is still in the scientific stage there is no weighting given. So there is no value judgement given between, say, global warming and ozone depletion. The results are done in accordance with a standard method, which is endorsed by the international standards organisation. To the extent that anything can be reproducible, that is the method that is used. The outcomes really are only different depending on how much time and effort is put into it by the scientist.⁷⁹

3.31 Dr Gregory Peters, a senior lecturer at University of New South Wales' School of Civil and Environmental Engineering, described his organisation's use of multi-criteria assessment (MCA):

You might have three environmental parameters and a cost assessment, and maybe some other parameters as well, and you have got to try and bring these things together. It is impossible to avoid human values at some point... The point is to make explicit what those values are and where they fit into the process. Things like exhibit A would be the sustainability framework for the water industry. This is something we developed for the Water Services Association of Australia [WSAA]. This outlines that sort of process where you consider as much quantitative data as you can handle, and you can find, and draw the different parameters together at the end, empowering the person to make a decision with enough information. That gets away from the situation we currently have where usually we do not consider a lot of the non-cost criteria at all.⁸⁰

3.32 Not only do MCAs promote robust decision making, they also promote transparency. As Dr Peters stated:

⁷⁷ S Casey, Committee Proceedings, p. 24.

⁷⁸ S Little, Committee Proceedings, p. 3.

⁷⁹ As above.

⁸⁰ G Peters, Committee Proceedings, 13 August 2009, p. 17.

The advantage of having an MCA is that the decision-makers can say that they thought the environmental issue was worth half of the decision score, and you can clearly identify how much. In that case half of the weighting has been given to environmental issues. Maybe it is less: maybe it is more. At least it is there and it is clear both to the people who might be reviewing the decision and also to the people supplying the goods. The market can then respond and say it appears that government wants a better [product] and as it is a big buyer it will make sure it has something that pleases them.⁸¹

Substantiating suppliers' claims

3.33 Several witnesses discussed the difficulties associated with substantiating suppliers' claims and put forward suggestions as to how government agencies can better guard against greenwash. 'Greenwash' refers to misleading environmental claims suppliers use to make their products more appealing.

3.34 Although Treasury stated that the Greenbuy system "is reliant on suppliers providing accurate and up-to-date data on the environmental attributes of their products", it also noted that tenderers must verify their claims with reference to Australian standards where applicable, and that DECCW and DSTA evaluate the environmental claims of tenderers. According to Mr Tout, however:

[Q]uite often it is very hard to test the claims of the people providing the goods to you. We do not have scientists and laboratories that can run around and test some of those claims. We obviously look at what research exists, but that is a really tricky point in all of this. Unless you have third-party accreditation, you are in a sense relying on the claims of the provider, unless somehow it proves itself to not be as they represent...⁸²

3.35 When Mr McLeay asked Mr Tout if the RTA did in fact rely on third-party accreditation like the International Organization for Standardization (ISO) standards, Mr Tout responded:

Where it exists, but it does not exist in too many places. It does exist in relation to recycled papers and a few other things. We have set standards in relation to dyes, inks, adhesives and what should be in those materials. Generally they would be compliant. By and large you are reliant on what the suppliers are telling you is the content.⁸³

3.36 A number of witnesses expressed the view that NSW should more fully embrace internationally recognised accreditation systems. According to Ms Johnson, for example:

AllIA supports validation of industry claims in this area and would suggest the adoption of internationally accepted self-certifying environmental standards, such as EPEAT [Electronic Product Environmental Assessment Tool] or ECMA [European Computer Manufacturers Association]... [These] approaches have been adopted at Federal level by the Department of Environment with some success. Most recently their terms and conditions in the 2008 managed services request for tender [RFT] mentioned the EPEAT international standard as a requisite for criteria in the tender and met with no pushback from the industry at all.⁸⁴

3.37 As well as indicating that Electronic Product Environment Assessment Tool (EPEAT) might be a useful standard for NSW agencies to rely on, Ms Johnson's additional

⁸¹ As above, p. 19.

⁸² R Tout, Committee Proceedings, p. 43.

⁸³ As above.

⁸⁴ L Johnson, Committee Proceedings, p. 22.

evidence about the adoption of EPEAT at the federal level provided a brief glimpse of just how repetitive the negotiation process must be for suppliers operating within the different procurement frameworks of Australia's various governments:

Our discussions with the Department of Environment and other centralised agencies at the federal level would indicate that EPEAT seems to be on the way up in terms of the standard that Federal government agencies are going to adopt.⁸⁵

- 3.38 For Mr Ian Higgins, the Chief Executive Officer of GECA, a greater reliance on eco-labelling would also assist agencies to substantiate suppliers' claims. Mr Higgins explained to the Committee how eco-labelling works in his organisation and around the world:

We write the standards based on International Organization for Standardization, known as ISO 14024. It is a life cycle-based eco-label, a type one eco-label. There are equivalents in other countries such as the Nordic Swan in Scandinavia and the Blue Angel in Germany. We are part of a global network called GEN, a Global Eco-labelling Network, which is a non-profit organisation. In New Zealand, Good Environmental Choice New Zealand is a government organisation. We write standards and have auditors to assess the products against those standards. We aim at the top end. So, rather than being a minimum performance standard, it is a top end. We aim for the top 20 per cent, to try to promote environmentally preferable products and services.⁸⁶

- 3.39 As Mr Higgins went on to explain, "The beauty of a tick is that it gives people reliable information, particularly if it is from an independent non-government organisation."⁸⁷ Ms Little, who is also on the board of GECA, offered another suggestion as to how NSW agencies might benefit from their work:

Good Environmental Choice Australia has written 45 product category standards for things that people buy all the time such as glues, paints, computers, carpets and cleaning products. It goes on for several pages and includes multifunctional devices, you name it. In [my training manual] it simply gives you the name and a one-paragraph description of the standard, but each of those standards is about a 25 to 30-page document and each one took about six months to draft. Each of them is based on the best international research that our staff could find to write those documents. Those standards are pass or fail standards; they have a very high benchmark. If an applicant wants to get a product, their carpet for example, eco-labelled according to the carpet standard, they have to reach a benchmark that is in the top 20 providers of carpet in the Australian marketplace. It is a very high benchmark; it is not a low standard...

Because these are publicly available documents and we do not charge for their publication they are available on the website for those procurement officers—the early adopters who are able to do this. They can take out clauses that are appropriate to what they want to buy and they can pick and choose the ones they think will be suitable to their circumstances or their organisation and write those clauses into their request for tenders. They include some pretty stiff limits and thresholds and quantitative numbers. So our standards are used both for sellers who want an eco-label and for buyers who can choose the text and clauses to put into their request for tender documents.⁸⁸

- 3.40 The then Minister for Roads' submission suggests that agencies could benefit from assistance of this kind. According to the Minister:

⁸⁵ As above.

⁸⁶ I Higgins, Committee Proceedings, p. 13.

⁸⁷ As above, p. 14.

⁸⁸ S Little, Committee Proceedings, p. 62.

The RTA believes that NSW agencies would benefit from the development of whole of government guidance on sustainable procurement [including:]

- Tools to assist government agencies assess the environmental claims of companies and goods and services being procured.⁸⁹

REVIEWS

3.41 The Committee was told that a robust procurement process requires regular reviews. In response to a question from Mr Ninno Khoshaba MP, Ms Little told the Committee that one of the things that differentiated the tendering process for the Sydney Olympic Games from other tendering processes at the time was the number of reviews they conducted. Ms Little explained:

It is a knee-jerk reaction to think that reviews are slowing things up when you are... rewriting the request for tender and reconsidering the weightings or the criteria... [T]he time saved by doing these regular reviews turned out to be worth any delay in progress because when the request for tender went out, the architects, the construction companies, then knew very clearly what was required and they brought their expertise into the how and the methodology of delivering the structure.⁹⁰

3.42 The NSW Government's approach to reviews is set out in its Gateway Review System. This system promotes six structured reviews at key points (or gates) throughout the procurement process (see Gateway Review Chart at Appendix A). In accordance with government policy, Business Case Reviews are mandatory for:

- high profile procurements;
- ICT procurements over \$5 million; and
- all other procurements over \$10 million.⁹¹

3.43 In response to a question from Mr McBride about the composition of the teams that conduct gateway reviews, Mr Timbs told the Committee:

The gateway process is structured as an independent peer review process for projects over a particular dollar threshold... Typically, the reviewers would be independent experts from both the private and public sectors with qualifications in whatever the relevant part of the process was. In relation to procurement, let me give an example of, say, a major construction project. You would have people on the panel that have been involved in procurement of the major construction works—railways, roads, for example. The gateway process is not an audit and it is not an executive function. It is designed to be an independent review of the work that is being conducted. The way the gateway operates though is quite an in-depth process.

Typically what would happen would be once a panel is established they would spend a number of days, depending upon the size and complexity of the particular project, interviewing management about the particular work at hand, reviewing contracts, they are given access to the people within the agency or the department that have been involved in the works, they would test and ask questions and then come back with a

⁸⁹ M Daley, Submission to the Inquiry on Environmentally Sustainable Procurement, 29 April 2009, p. 2.

⁹⁰ S Little, Committee Proceedings, p. 5.

⁹¹ NSW Government, *Gateway Review System*, accessed 1 September 2009, at <<http://www.nswprocurement.com.au/Government-Procurement-Frameworks/Gateway-Review.aspx>>.

review and a debrief at the end of the review period and deliver their findings to the relevant stakeholders, which would be potentially the agency and Treasury.⁹²

ENGAGING WITH SUPPLIERS

3.44 The extent to which government agencies do, and should, engage with suppliers throughout the procurement process was raised several times during the Committee's inquiry. The Committee was told that the RFT itself is a powerful form of communication as it sends a message to suppliers and the broader community about the Government's priorities and expectations. The comments of Mr Donald Nolan, the Contracts and Procurement Manager for the State Transit Authority (STA), provide a good example of this:

all agencies struggle with... how much they are going to divulge in terms of the importance of all the various criteria that are used to assess the buses. We not only use a scoring matrix but we also use minimum criteria such as the emission levels that buses must reach. So we are communicating to the market that we are actually looking for something ahead of the legislative requirement. For instance, the Euro 4 emissions requirement is what is required and we specify emission levels that far exceed that as our minimum benchmark. We are setting not only a benchmark but also some additional criteria to assist in getting there.⁹³

3.45 However, the STA conducts its own procurement processes and witnesses suggested that this kind of leadership from DSTA is rare. Mr Higgins told the Committee that:

the primary ingredient missing over the years has been political will; the profound obstinacies of [the] Treasury and Commerce Departments to allow green procurement to happen. To say that government green purchasing cannot be done in New South Wales is nonsense. I was responsible for the Australian Building Greenhouse Rating Scheme [ABGR], and of course the then Premier, Premier Carr, had just announced that government tenancies would prefer to have higher rated ABGR tenancies. So through that action, by stating what the Government required or wished for, led to a profound change in what was offered to tenants in the broad area; because the Government was demanding a higher level.⁹⁴

3.46 Of course, communication does not flow just one way, and true 'engagement' involves an ongoing discussion between procurers and suppliers. A less than flattering picture was painted in this regard also:

In terms of a collaborative approach, AIIA considers that NSW Government agencies should work more closely with industry, particularly in the pre-tender stage to share and develop environmentally sound ICT goods and services that can be delivered, not only to NSW Government agencies but also into the wider Australian and international government marketplaces: The NSW Government Framework does not offer too many options for further collaboration between industry and government.⁹⁵

3.47 Mr Moodie, a former Director of Fuji Xerox, provided an example of what is possible when suppliers and procurers work together, with his example also involving an agency that is accredited to conduct its own procurement:

⁹² R Timbs, Committee Proceedings, p. 5.

⁹³ D Nolan, Committee Proceedings, 13 August 2009, p. 59.

⁹⁴ I Higgins, Committee Proceedings, p. 11.

⁹⁵ Australian Information Industry Association, Submission, p. 12.

Last year the Roads and Traffic Authority bought a lot of gear having regard to sustainability principles and, in particular, its carbon footprint. When a modern, multifunctional device is running and copying that is equivalent to 29 75-watt light bulbs running. It has three step-downs in it, sometimes four, down to a standby mode from which it can warm up in about 45 seconds. Once it is down at that standby mode it is equivalent to only one 75-watt light bulb running.

If you are using that device as a printer—so you are printing from your desk to a printer at the other end of the office—by the time you get to the machine it has warmed up and printed your job. If you are using it as a copier you have to wait while it goes through a 45-second warm up. The point I am coming to is that, ultimately, the best savings in this sort of situation can be engineered when supplier and customer work closely together to optimise the utilisation of the power management facilities, or the control facilities, within the product...

[The RTA review involved] a carbon assessment of the total document requirements of that business. It resulted in a huge savings of carbon—13 tonnes for the month.⁹⁶

3.48 Mr Tout also gave evidence on the benefits of his agency's collaboration with Fuji Xerox:

In either 2006-07 or 2007-08 we went through a strategy of reviewing all of our printers, photocopiers and fax machines et cetera. We went to the market to try to find an improved product that would deliver us a better outcome than the one we had. We were able to reduce the total number of assets or pieces of equipment we had in our fleet and we got better environmental performance out of what we ultimately selected, which was a set of multifunction devices. We ran the Fuji Xerox carbon calculator over those devices and the estimate is we saved about 13 tonnes of carbon emissions per month, or 156 tonnes per annum, by utilising that equipment as opposed to what we had. But those particular machines happened to function extremely well on the green WRAPP paper. Again, the two things came together. The paper costs are reduced. We were able to leverage up some equipment, which gave us some very strategic advantages from an environmental perspective. That equipment worked extremely well on that type of paper as well. I am not certain we actually faced an additional cost overall when we put those two things together. I think that is perhaps one of the things that people need to realise. Sometimes they are not frank costs, particularly if you are looking at the whole of life of a product, if it is more than offset by your operational costs. I think a very good example of that was that we replaced 50,000 incandescent globes with LEDs. They use 11 per cent of the energy with a standard incandescent lamp. That is fairly significant. The life of the incandescent lamp is also one year. The average life of an LED is seven. The implications for maintenance in relation to just the implementation of that product, whether the LEDs cost you 10 per cent or 20 per cent more, was totally irrelevant...

The overall benefit to it is a 90 per cent reduction in energy consumption and a 700 per cent improvement in relation to maintenance over the life. Sometimes you have got to look at the trade-offs. It is not just a one-way street of costs.⁹⁷

3.49 Mr Palandjian provided yet another example based on the restructuring his own company undertook:

From a Hewlett-Packard perspective, I will give an example of what the company has been through over the last 10 or 15 years through various acquisitions when Hewlett-Packard acquired Compaq and quite a few other organisations. If we look at the IT infrastructure that HP had, with 85 data centres spread throughout the globe, it went through quite a defined data centre consolidation initiative. Today we have six data

⁹⁶ R Moodie, Committee Proceedings, p. 28.

⁹⁷ R Tout, Committee Proceedings, pp. 42 – 43.

centres, of which three mirror three, so there is significant redundancy in both. All six of them are essentially established in the US.

This is the type of story that is interesting because we saved 33 per cent in terms of our carbon footprint and achieved significant savings, in terms of billions of dollars, in terms of the IT infrastructure that is used to run the HP network. This is the type of journey that we have been on as an organisation that, obviously, is publicly listed as well. HP at some point would love to have that type of high-level discussion about the journey on which we can take our customers, and we do that every day through consolidation, driving efficiency, and driving a reduced carbon footprint. That example of the 12:1 ratio is certainly possible today with the standard that we have from a technology perspective. I guess we are moving away now from, "Here's the price of the box. Here's the spec that we need to achieve to meet that price." It is a high-level discussion that at some point we would like to have with government.⁹⁸

SUSTAINABILITY ADVANTAGE

3.50 DECCW's Sustainability Advantage program assists organisations to adopt sustainable practices by providing them with guidance on a range of issues, many of which relate to procurement. Once an organisation pays a fee of up to \$3,000, a DECCW specialist helps the organisation identify five to eight critical environmental actions, which will then guide which three or four modules the organisation chooses to undertake over the subsequent 18-month period. The seven modules from which organisations can choose are Vision, Commitment and Planning; Resource Efficiency; Environmental Risk and Responsibility; External Stakeholder Engagement; Supply Chain Management; Staff Engagement; and Climate Change. Agencies must then report on their progress every six months and be willing to share non-confidential information with other participants. As the Department's Sustainability Advantage brochure stipulates, "Continuous improvement involves reflection and evaluation."⁹⁹

3.51 The Committee heard evidence from the Department of Health's Chief Procurement Officer, Mr David Gates, about the benefits of Sustainability Advantage. In accordance with the Department of Health's priorities, the Department chose to undertake the Vision, Commitment and Planning; Stakeholder Engagement; Supply Chain Management; and Resource Efficiency modules. Mr Gates told the Committee that one of Sustainability Advantage's most important benefits was its capacity to facilitate cultural change in an environment in which other priorities had traditionally been given prominence:

We have been working on [an environmental sustainability strategy], and the majority of work to date has been done through the Sustainability Advantage Program. We have used that program because it goes back to the issue of culture changes, the question of engaging the health system, not just the Department of Health. The advantage of that Program is that it has given us the mechanism to, in effect, engage a whole variety of administrators across the system. One of the key issues in Health is that procurement strategies, in particular, need to be compatible with the issue of patient safety. We are

⁹⁸ A Palandjian, Committee Proceedings, p. 34.

⁹⁹ Department of Environment and Climate Change, *Achieve a Sustainability Advantage*, DECC, Sydney, June 2009, p. 3, accessed 12 October 2009, at <<http://www.environment.nsw.gov.au/resources/sustainbus/09389SustainabilityAdv.pdf>>.

significantly constrained by the Therapeutic Goods Administration provisions. Those issues sit beside sustainability as the drivers of what we do.¹⁰⁰

¹⁰⁰ D Gates, Committee Proceedings, 13 August 2009, p. 53.

Chapter Four – Purchasing Practice

- 4.1 Three issues dominated the Committee’s investigation into the purchasing practices of individual agencies:
- the amount of environmental data that is available to the purchasing officers of individual agencies;
 - how well equipped purchasing officers are to incorporate that data into the product selection process; and
 - the broad and complex environment in which purchases are made, including the need for purchasing officers to take into account of a range of agency-dependent concerns when deciding which particular goods or services to buy.

AVAILABILITY OF ENVIRONMENTAL DATA

- 4.2 According to Treasury’s submission, “Government procurement systems for construction and goods and services, and government contracts always include environmental requirements in request for tender documents.” As a result, when purchasing officers access the DSTA-run Smartbuy catalogue to select from approved suppliers as they are required to do, they can use the catalogue’s Greenbuy feature to access relevant environmental data. Among the contracts listed in the submission as having “sustainability elements” are “motor vehicles, fuel, fleet management, electricity, electrical products, computers, workplace supplies and waste management.”¹⁰¹
- 4.3 Treasury’s submission further explains that Greenbuy “uses eco labels to annotate individual products on the smartbuy product screens. For example, with a refrigerator, Greenbuy gives the energy star rating label which displays the energy efficiency of the product.” According to Treasury, Greenbuy “is the first of its kind in Australia to use visual images to draw attention to the green features of products and also employ a detailed search facility for green features.”¹⁰²
- 4.4 In contrast to this, LGSA’s submission states:
- Very few government contracts contain explicit environmental consideration or data. This makes it difficult to make purchasing decisions based on environmental criteria using these contracts.
- The Associations receive regular feedback from procurement officers in councils reporting that it is virtually impossible to locate sustainable products using the Government Procurement Contracts...
- The real area of concern for the Associations is where the State Government has explicit policies or guidelines with direct relevance to local government, but where Government Procurement Contracts make it difficult to comply.

¹⁰¹ NSW Treasury, NSW Government Submission, pp. 1 and 3.

¹⁰² As above, p. 13.

The main areas where this occurs are in the areas of waste minimisation, energy and water efficiency, greenhouse gas reduction and air pollution.¹⁰³

4.5 The submission from LGSA highlights two examples in which insufficient environmental data is available for purchasing officers. The first concerns the contract for floor coverings. According to LGSA, that contract “has 21 suppliers many of whom supply [or specialise in] floor coverings that contain recycled material... [y]et there is nothing in the contract to indicate this or help the Purchasing Officer differentiate between products...”¹⁰⁴

4.6 The second example concerns the contracts for fuels and motor vehicles which, according to LGSA, fail to provide “key sustainability information that would help facilitate the uptake of more sustainable vehicles and fuels.” The submission goes on to explain:

Contract 366 (Fuels and Associated Products) goes part of the way with the inclusion of ethanol and biodiesel and a clear indication of where each fuel can be purchased. This is both positive and useful.

Nevertheless, the Contract fails to provide critical information on the nature and source of the feedstock – the material from which the fuel is made. This information is critical to assess the environmental benefits of any biofuel, and particularly for biodiesel in the current Australian context.

Different feedstocks have different environmental footprints and environmental issues. The impacts may be different for a fuel made from waste material feedstock (such as used cooking oil or agricultural by-product) compared to virgin feedstock which has been grown specifically for fuel production.

Some crops have significant biodiversity and habitat considerations - such as palm oil sourced from countries where rainforest has been cleared to make way for palm plantations.

Steep price rises in human food staples resulting from crop diversion (such as soybeans grown for human food diverted to produce biodiesel) may have social considerations.

All of these issues are important sustainability concerns that cannot be addressed without information on the precise nature of the feedstock and where it has been sourced.

It would be a relatively easy matter in the tender process to include questions on these issues, and for Contract 366 (Fuel and Associated Products) to include key information on feedstock, country of origin, etc.¹⁰⁵

4.7 During the Committee’s hearings, Mr McBride asked the LGSA representatives to provide additional examples. In relation to the contract for travel services, Mr Crawford stated:

Contract number 1008 is for domestic travel, and it has an associated contract for international. That contract does not mention carbon offsets, for example, even though most of the domestic airlines offer a carbon offsets scheme. However, one does not. If you are a procurement officer who is trying to use that contract to identify which airline is able to offer you the sustainability product, it is hard using a contract.¹⁰⁶

¹⁰³ Local Government and Shires Associations, Submission, pp. 2 – 3.

¹⁰⁴ As above, p. 3.

¹⁰⁵ As above, p. 4.

¹⁰⁶ S Crawford, Committee Proceedings, p. 36.

- 4.8 Yet another example was provided by Mr Tout. When Mr McLeay asked Mr Tout whether the State Contracts Control Board enables the RTA to meet its targets, Mr Tout responded:

Generally speaking. Sometimes it is about the way you implement it, not just about the contract. There is a range of vehicles in the State Government contract, for example. We look at the green fleet guide that is put out by the Commonwealth Government, which defines the environmental performance of a vehicle, and we actively try to acquire those vehicles that best meet the environmental outcomes we are after through State Fleet under the State Government contract. It is not necessarily the contract itself. We are leveraging the bits we want out of that contract to help us achieve our objectives. That goes for other things as well.¹⁰⁷

- 4.9 However, the Director General of DSTA did not agree with at least one of LGSA's claims. In response to Mr Draper's request for Mr Head to clarify his position on LGSA's assertion that "none of the State Government Contracts specify recycled content products," Mr Head stated:

As I indicated, while I think that things have been improving over time, it certainly would have been more difficult several years ago to access this kind of information. The fact that Greenbuy is available as part of Smartbuy suggests that quite an effort has been made to provide information for users of State contracts about the environmental credentials associated with some of those contracts. I am prepared to accept that we may need to do more work in promoting the usefulness of that. I was not being dismissive of the submission by the LGSA, but it seemed to me to be a sweeping generalisation and one that is certainly not borne out by my recent experience in this process.¹⁰⁸

PRODUCT SELECTION PROCESS

- 4.10 According to Treasury and DSTA representatives, purchasing officers are supposed to select the product that offers the best value for money. When Mr McLeay asked Mr Crawford whether purchasing officers struggled with this concept, his answer provided insight into the difficulties purchasing officers face:

Absolutely. I mean the market system is focused on purchase price. Often it is about keeping purchase price low, even if that distorts other input prices throughout a product's life. Most people in their jobs are time poor. Few people have got the time that they ideally would like to be able to really unpack all of the costs through a product's life. So invariably we are forced into the purchase price being the single most important issue. Now it is not always the only issue. There are many cases where the life-cycle costs are taken into account—vehicles are probably the best example. Most fleet managers are very familiar with considering all of those input costs like registration, tyres, fuel and depreciation and that sort of thing. So vehicles are an example where we do look beyond just purchase price. But there are many products where the purchase price really is the sole determinant.¹⁰⁹

- 4.11 After noting that several submissions indicated that there was a lack of clear guidance for purchasing officers on how to weigh up the different costs and benefits associated with a particular product, Mr Draper asked Mr Crawford whether Councils

¹⁰⁷ R Tout, Committee Proceedings, p. 42.

¹⁰⁸ G Head, Committee Proceedings, p. 14.

¹⁰⁹ S Crawford, Committee Proceedings, p. 37.

had implemented training strategies in order to overcome this problem. Mr Crawford stated:

That is one thing that we have done, for example, through the Sustainable Choice Program. We have a training course that we run for council staff. There is a module within that for tendering. So far it has been delivered to over 300 staff from 28 councils. We talked through all of those issues. Ultimately many of those issues are guided by an organisation's own policies and the objectives on how they prioritise different issues. But taking it down to the next level from that—if policy, for example, prioritises water saving or energy saving, the challenge then for the procurement staff is how to assess that in relation to a particular product. There are different kinds of tools and resources, eco-labels and rating schemes, et cetera, that we talk about. Certainly the Sustainable Choice Program is one of the ways in which local government is out there working with staff and running training for them.¹¹⁰

4.12 The then Minister for Roads suggested that State agencies would benefit from training. According to his submission:

The RTA believes that NSW agencies would benefit from the development of whole of government guidance on sustainable procurement [including:]

- How environmental issues associated with the supply of goods and services are assessed as part of determining whether government is being offered best value for money. For example, what weighting is given to environmental criteria compared to cost, occupational health and safety, quality, experience of companies etc...
- Provision of training and information to build capacity with the NSW Government on sustainable procurement practices.¹¹¹

PURCHASING IN CONTEXT

4.13 The assessment of what provides value for money from a purchase is dependent on how different benefits and costs are valued. While many costs and benefits can readily be translated into objective monetary terms, how others are valued depends on the different structures, aims, capacities and cultures of the agency in question.

4.14 The agency environment affects purchasing at two levels. One is the inherent value ascribed to certain factors when assessing value for money. The other is the policies the agency is pursuing that may affect purchasing choices. Thus, in addition to undertaking an objective assessment of the costs and benefits of a low energy appliance, an agency may make a policy choice in favour of such an appliance to fulfil an agency or Government commitment, such as that in the Sustainability Policy. At the level of purchasing items rather than tendering contracts, where the benefit to be obtained from detailed analysis may be negligible, decisions may be most conveniently made on the basis of a policy, such as choosing a particular energy star rating.

4.15 Evidence put forward by agency representatives indicated the large variety of concerns purchasing officers must consider when buying goods and services, and demonstrated a need for flexibility to enable agencies to make purchasing decisions that meet all of their needs.

¹¹⁰ As above, p. 36.

¹¹¹ M Daley, Submission, pp. 1 – 2.

4.16 The Department of Education and Training's (DET) evidence on buying paper, disposing of paper and buying cleaning products illustrated a range of issues that the Department must weigh up when choosing which products to purchase. When Mr Turner asked the Department's Chief Procurement Officer whether the State contract for stationary-based products stipulated that schools had to buy sustainable items, Mr Hopkins replied:

What we do is make sustainable products or green-based products known to the schools and they are offered as choices on most occasions. Sometimes we will have a product where it will be specified but most of the time it is optional, and why it is optional is because it costs more—on most occasions. Costing more sometimes is incremental, but with our scale of expenditure incremental is significant. I will give you an example. One of the examples is paper, which is a classic recycle issue. Recycled paper retails for around about \$5.26, \$5.28 [per ream], something like that, on contract... Schools are also buying imported paper off the same supplier for around about \$4.06 [per ream]. So we are talking about a 28 percent difference in cost. We have 2.4 billion sheets that are used every year. [If everybody bought recycled paper]—that is the issue if we mandated this situation—that would cost us \$10 million extra year just in using paper.¹¹²

4.17 This demonstrates the types of assessments purchasers must make in determining value for money. Recycled paper is known to have lower environmental costs but those costs have not been quantified to allow a price comparison with non-recycled paper. At the same time purchasing recycled paper is in line with a policy objective of teaching by example the benefits of recycling and the Government has a policy of preferring recycled where it is cost and performance competitive.¹¹³

4.18 As a first step to more environmentally sustainable procurement, many governments around the world have identified a number of high-use/low-cost items, such as paper, and set mandatory targets, such as '100% post-consumer recycled content' and 'chlorine free'. High-use/low-cost items are seen as a good place to start and the argument is that the purchasing power of government agencies will push the price down so that it will eventually be cheaper than the environmentally unfriendly alternative. As DET's evidence illustrates, however, such measures have tangible repercussions for agencies.

4.19 Like paper purchasing, paper disposal may be more expensive if done in an environmentally friendly way by recycling, rather than by sending it to landfill. However, the majority of schools in NSW are paying extra for the environmentally friendly option when it comes to the disposal of paper because of the added educational aspect:

Mr HOPKINS: Recycled paper... used to be a big market in the international area where they take scrap paper away and they would make new paper products. They would take that for free; they would come and pick it up. It was a resource for them that they could get for nothing and they were happy to pick it up. The international market collapsed under the GFC; they will no longer do it for free, they will charge you to pick it up. So we have a situation now in all the regions, all the schools, where waste pick up is around about \$53 a service and that recycled paper is \$48 a service. That is \$48 we do not need to pay because there is room in the waste bins. We could just dump the paper into the bins and not pay \$48. It is very difficult for us to say to schools "you must" when it is their budget to manage the operation of their schools. We say "you must" when we

¹¹² P Hopkins, Committee Proceedings, 13 August 2009, p. 48.

¹¹³ Department of Environment and Climate Change, *Sustainability Policy*, p. 7.

know it is the right thing and you can save money but when it actually costs more and it is more a judgement call in a situation, we provide options to school principals.

Mr ANTHONY ROBERTS: Correct me if I misunderstood you there. There is certainly a significant program within the Department of Education with respect to teaching young people the importance of environment and recycling. You are saying that in fact we are following a process whereby we are sending recyclables to waste rather than recycling, because of the current climate?

Mr HOPKINS: No, I am saying that that is the cost we are paying for recycling. Schools are choosing to still recycle.

CHAIR: If they want to?

Mr HOPKINS: If they want to, and they are continuing to do it because they are choosing to do it... It is called SEMP in our schools—the Student Environmental Management Plan. It is never phrased this way but I will phrase it this way to you: it is really trying to get behavioural change; trying to create new ways of thinking in school students, and of course the best way to teach people is to do it yourself.¹¹⁴

4.20 Mr Hopkins' evidence about the use of cleaning products in schools illustrates just how situationally dependent 'value' can be:

We use a lot of environmental products in janitorial because there is... clearer support for that because there is not so much chemical being sprayed around the school where there are young children and young people. Although that can sometimes be a little dearer it is closer to cost neutrality and the value that we get is worth the extra cost we pay.¹¹⁵

¹¹⁴ P Hopkins and P McLeay, Committee Proceedings, 13 August 2009, p. 48.

¹¹⁵ P Hopkins, Committee Proceedings, p. 49.

Chapter Five – Impediments to More Environmentally Sustainable Procurement

- 5.1 The Committee identified five key impediments to more environmentally sustainable procurement in the NSW public sector.

FAVOURING PRICE OVER VALUE

- 5.2 There is often a tension in purchasing decisions between reducing the initial purchase price and achieving the best value over time. The NSW Procurement Policy makes it clear that value is to be preferred over price, but there are a number of forces that militate against always choosing value. Purchases need to be made within existing budgets and sometimes that which is cheapest in the long term is difficult to afford in the short term. Also, administrative arrangements can result in the medium or long term costs of a purchasing decision being carried by a different entity from that which makes the initial purchase. For example, if the person deciding to purchase a computer has no accountability for its maintenance costs, they may have an incentive to ignore low maintenance options that have a higher purchase price.
- 5.3 This tension between initial cost and value becomes even greater as the consequential costs of a product become more remote from the purchaser. It is therefore often heightened when considering environmental costs, which are often distant in time or incurred by those outside the purchasing entity.
- 5.4 Clear and unambiguous policies and guidelines are needed to assist procurement officers to favour value over initial costs.
- 5.5 As noted above, Mr Timbs from NSW Treasury was emphatic that “whole-of-life value for money is the key determinant... in determining successful procurement decisions.”¹¹⁶ In addition, when asked by the former Chair, Mr Paul McLeay, whether environmental considerations were separate from and secondary to the standard process for assessing value for money, Mr Timbs replied:
- Environmental and sustainability considerations are not secondary to but part of the overall decision-making process. Again, the guidelines do not give quantitative determinations or weightings on how sustainability factors should be taken into account compared to other factors because it very much depends on case-specific circumstances. But it is clear that sustainability considerations are very much an integral part of the decision-making process, not a secondary consideration.¹¹⁷
- 5.6 However, it is not always understood that sustainability considerations are an integral part of the procurement process. As Mr McLeay stated at the hearing, his reading of the cost neutrality principle in DSTA’s Guidelines on Environmental Management suggests that an environmentally friendly product should only be bought if its initial purchase price is the same as, or less than, the environmentally unfriendly option.¹¹⁸

¹¹⁶ R Timbs, Committee Proceedings, p. 7.

¹¹⁷ As above, pp. 7 – 8.

¹¹⁸ P McLeay, Committee Proceedings, 12 August 2009, p. 8.

- 5.7 An alternative interpretation is that, as ‘cost’ means whole-of-life cost and not purchase price, the cost neutrality principle does not promote the purchase of the cheapest product, but rather the one that offers the best value over time. However, this interpretation is hard to sustain because, if cost neutrality means value for money, there would be no need to state that procurement decisions must be based on the cost neutrality principle as well as the value for money principle. Thus, although Treasury’s Procurement Policy makes several references to the Government’s environmental objectives, the uncertainty created by the Guidelines has diluted this message.
- 5.8 The Committee was told by some frustrated witnesses that the confusion surrounding the extent to which environmental considerations ought to be incorporated into purchasing decisions was caused by a lack of leadership. After stating that “the primary ingredient missing over the years has been political will,” Mr Higgins informed the Committee:
- If you identify the key outcomes you want from suppliers then you will find, as Ms Little suggested, that you will have suppliers delivering buildings or structures in the way that you want and in the way in which the environment would benefit. This inquiry has the opportunity to really move green procurement up the level of hierarchy and the issue is not so much the degree of difficulty of how to do it, but rather one of willpower.¹¹⁹
- 5.9 However, when Mr Draper asked the STA representatives whether the Government had sufficiently supported the agency’s efforts to create an environment in which staff felt comfortable making decisions based on value rather than price, the STA’s Environment Manager, Mr Gosling, said that it had. Mr Gosling went on to say:
- We have been a member of the Greenhouse Challenge Plus Program for the last couple of years until its recent cessation and that has helped us develop strategies towards sustainable procurement, reducing our emissions and generally monitoring our environmental emissions footprint. There is also the Waste Reduction and Purchasing Policy program, which you may be familiar with, under which we have to report biannually on our waste reduction. There is the Cleaner New South Wales Government Fleet program for our smaller fleet. Finally, there are the more recent New South Wales Government Sustainability Policy and sustainability targets, which have all helped towards focusing us on sustainable procurement and environmental issues.¹²⁰
- 5.10 As outlined in Chapter Two, the Government has adopted a number of initiatives designed to foster environmentally responsible behaviour, including with respect to purchasing, across the public sector. The Committee heard evidence indicating instances where these policies were leading to procurement decisions that provided significantly improved sustainability outcomes, and contrasting instances where the lowest price took priority over value. It appears, therefore, that more needs to be done to reinforce that best value for money, rather than price, is to be pursued in Government procurement.

LACK OF GUIDANCE, INFORMATION AND TRAINING

- 5.11 Even the most clearly articulated message will not be implemented throughout the public service without adequate guidance, information and training. Mr Martin described this challenge to the Committee in the following way:

¹¹⁹ I Higgins, Committee Proceedings, p. 12.

¹²⁰ D Gosling, Committee Proceedings, p. 61.

Impediments to More Environmentally Sustainable Procurement

I think the problem is that environmental considerations can be subsumed by other considerations, particularly price. Policies, not just in New South Wales but in other jurisdictions, as they currently are arranged, provide that environmental considerations be considered as part of the value-for-money assessment. But there is a lack of clear guidance in how that should be done in terms of what criteria should be assessed and what to do if a product or a service may not necessarily be the cheapest option but may offer superior performance in terms of its environmental impact...

In the absence of clear guidance the traditional dominance of price will always be difficult to overcome, and it is not just a difficulty that procurement officers have—those people who are making the assessment of tenders—ultimately, the decisions they make need to be defended down the decision-making chain. At some point in time we all understand that there are pressures on government budgets, there are pressures on agency budgets, and there will always be that pressure to pursue the cheapest option, because it is a compelling case that an agency will always seek to reduce its upfront spend. I am concerned that as things are currently arranged it is difficult in some cases to make the case for sustainability within that framework. So I think there needs to be clearer guidance and also training for people who not just have immediate responsibility for procurement, but agency-wide training so that people all along the decision-making process understand the importance of those environmental considerations.¹²¹

5.12 Dr Peters also highlighted the need for greater guidance:

Looking at the three documents, which were part of the setup of this [inquiry], it seemed to me that the Code of Procurement says a few nice words that are contained in the policy, or vice versa. They mention the environment a few times and say some nice things about it but there is not really any way of making a decision informed by environmental issues using those. Whereas the Environmental Management Procurement Guidelines is the best of these three things and starts to embody a bit of the staged approach that we are talking about. Even though it talks about certain types of labels and ensuring that computer equipment has a standby mode and that sort of thing it does not apply any quantitative standards. It does not say you must have three stars or you must have a greenhouse emission that is less than a certain numerical figure per hour of use or something like that. It does not go quantitative and it does not tell people what the Government's requirements are. It just sort of says: Here are some things you should think about.¹²²

5.13 Ms Little's experiences support those of Mr Martin and Dr Peters. When Mr Draper asked Ms Little about the knowledge gaps that had prompted her to create a course on sustainable procurement, Ms Little said:

The gaps in the knowledge that I saw were things like the fact that procurement is still basically done on the basis of cost-benefit analysis. That is measured in units of economics, so nearly everything is converted to a dollar value. The other two professions, environmental science and construction, have moved on to another form of analysis, life cycle analysis. That takes the whole time frame of a building or a product and looks at the costs over that time frame. Life cycle analysis itself is a scientific tool; it has an international standard and it has a basis, and it looks at everything from the raw materials through to production, maintenance and decommissioning. It can be applied to a product, a substance, as well as being applied to a building. Life cycle analysis is a very different and more advanced way of measuring things than cost-benefit analysis.¹²³

¹²¹ L Martin, Committee Proceedings, p. 6.

¹²² G Peters, Committee Proceedings, p. 18.

¹²³ S Little, Committee Proceedings, p. 2.

- 5.14 As these observations highlight, various kinds of information and training are needed for agency staff, depending on their place in the procurement chain. While there is a need for procurement officers who can undertake sophisticated life cycle assessments, there is also a need for purchasing officers who can determine, for example, which of the five different light bulbs available to them offers the best value over the whole of its life.
- 5.15 As this last point suggests, the kind of information and training these officers need relates not only to the procurement process, but also to the products themselves. Even those purchasing officers who feel confident incorporating the environmental credentials of products into their purchasing choices will not be able to do so if those credentials are not made available to them.
- 5.16 The Committee notes the differences of opinion with respect to the amount of environmental information available to purchasing officers on DSTA's Greenbuy system. While it does appear that DSTA has made good progress in this regard, the Committee is concerned by the number and types of contracts that do not appear to contain adequate environmental information.
- 5.17 In response to a question by Mr McLeay about state contracts, Mr Crawford said:
Many of them do not provide enough environmental information. Again it varies from council to council but I am sure there are instances where all of them at some point have not provided as much information. But what is a fair and reasonable amount to expect in that document? You cannot expect the contract to provide all the environmental data for every product—that is simply not practical or feasible. It is about trying to balance at that point how much can be put in there that is going to be really helpful for the officers trying to make purchasing decisions and yet practical for those that are developing contracts?¹²⁴
- 5.18 On the basis of the evidence before it, the Committee is of the opinion that DSTA could do more to get this balance right.

LACK OF REPORTING AND REVIEW

- 5.19 While the Committee was impressed by the WRAPP reporting requirements and by the monitoring initiatives of individual agencies, it was disappointed with the lack of information on the collective and relative performance of agencies in relation to their environmentally sustainable procurement practices more broadly.
- 5.20 As noted above, WRAPP includes targets and a requirement that agencies report on their progress every two years to DECCW, as well as in their annual reports. With respect to purchasing, those targets stipulate that:
- Where relevant, available and fit for purpose, agencies must purchase
 - a minimum 4-star rating under the Minimum Energy Performance Standards Scheme and/or
 - a minimum of 4-star rating under the Water Efficiency Labelling and Standards Scheme or Smart Approved WaterMark products and services;
 - A minimum of 85 per cent of copy paper purchased by the NSW Government in 2014 must contain recycled content; and

¹²⁴ S Crawford, Committee Proceedings, p. 37.

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- Agencies must specify the inclusion of at least one recycled content option as part of each publication quote sought.

5.21 When Mr Draper asked DECCW representatives whether their Department benchmarked NSW's sustainable procurement practices against other jurisdictions, Mr Rogers responded with information about WRAPP. According to Mr Rogers:

We have benchmarked the WRAPP program, which is the one for which we have policy responsibility. As part of a review we benchmarked against 12, including some overseas ones. We came out fourth and first in Australia. The three overseas ones all had higher levels of mandatory reporting than we have. There is an issue about how much you invest in the reporting scheme and how much you make everyone report every infinitesimal bit. But we were benchmarked first in Australia and, as I say, in the top third overseas.¹²⁵

5.22 Evidence from Mr Troy, the Strategy Manager of Procurement Strategy for DET, demonstrates that individual agencies are working with DECCW to enhance the WRAPP reporting regime.

5.23 In relation to DET's plans for effective monitoring, Mr Troy stated:

From July 2010 there is to be reporting by the department. That will go through the Department of Environment and Climate Change and then up to the Federal Government and there will be a reporting of recycling of waste and of all those types of activities. We are moving contracts towards being able to gather that information. An example of how we are doing it is that as part of the National Solar Schools Program we have taken a unique position that no other State or independent school has taken—that is, we are getting all the information sent back to a central data warehouse in relation to the solar power being generated, the green power going back into the grid, as well as the consumption coming out of the grid owners.

The grid owners are participating in a program of sending that data direct to our data warehouse and that information will be loaded up. That will save schools manually having to report what they have been saving through this process. We will have that information at 8 o'clock each morning, the day after it happens, for 365 days a year for the next 20 years, as that is how long the program is supposed to last. Within 12 months we will be looking at putting on a number of schools for the capture of all their water information. As we roll out rainwater tanks and other water-efficient products we will be able to monitor the benefits that that has brought to a school community by getting it live from the site and not asking the schools to trace it.¹²⁶

5.24 In relation to the reporting plans of other agencies, Mr Troy went on to say:

Each major agency such as Health, our department, and a few of the other larger agencies are working closely with the Department of Environment and Climate Change on a reporting regime for waste. They are putting together some recommendations on reporting format so that we can all report in a similar sort of way. Those sorts of steps have been taken mainly over the past six to eight months. We have not yet finalised them but we know that the date for starting to report up through the streams is coming soon. We fought hard to get this method for the National Solar Schools Program because it will immediately save time at a school level through the school administration managers. It is also leading to us getting instant information. We are just starting to roll out the program. Over the next five years, hopefully, 1,700 or more schools should end

¹²⁵ T Rogers, Committee Proceedings, p. 24.

¹²⁶ P Troy, Committee Proceedings, p. 50.

up with solar panels on their roofs and this information will be reported directly to the department on a day-to-day basis.¹²⁷

5.25 Although there appears to be a number of reporting initiatives under way across different agencies and programs, the Committee was not able to get a clear picture of agency performance with respect to environmentally sustainable procurement. As noted above, Mr Rogers from DECCW responded to a request for information about sustainable procurement practices with information about WRAPP. While there are obvious overlaps between the two, the WRAPP purchasing targets concern just one part of the Government's total spend on goods and services.

5.26 In addition, NSW Treasury's representative was not able to tell the Committee how many products purchased by NSW Government agencies could be classified as sustainable:

Mr ANTHONY ROBERTS: ...Can you tell me how many products or services we purchase at the back end—not the front end—that actually survive that sustainable test?

Mr TIMBS: I am sure that information is available and could be collated. I am not aware of a central repository of that information but I would be confident that that information could be collated.

Mr ANTHONY ROBERTS: It is not collated or collected?

Mr TIMBS: To my knowledge there is not a central repository of that information.

Mr ANTHONY ROBERTS: While we have a policy, government cannot say whether it is successful?

Mr TIMBS: Those calculations are not done within Treasury.¹²⁸

5.27 Later in the Committee's hearing with Treasury, Mr McLeay asked Mr Timbs for evidence that the Government's environmentally sustainable procurement commitments were being adhered to. Mr Timbs could not provide a comprehensive answer:

CHAIR: ...Your evaluation criteria does say that there is going to be economic, social and environmental development initiatives and that you take into consideration the environmental management practices of the tenders, but the Committee wants to see if there is any evidence of that being the outcome. Have there been examples where there have been two printer suppliers and one got knocked out because their environmental benchmarks were not being met? Has there been a case where a car fleet was changed because they did not have good outcomes? Was there a school not built because of something or were uniforms not ordered because of too much chemical bleaching? As I say, the policy appears sound but the Committee wants to see if it is working in practice. We have little evidence of it actually working in practice so please give us some examples of where it has worked...

Mr TIMBS: As I have mentioned earlier, the monitoring and implementation of procurement guidelines is in fact the responsibility of government departments and agencies; it is not the direct responsibility of Treasury. But in answer to your question, I can cite examples of where Treasury can itself speak for seeing the successful implementation of sustainability criteria in projects through major constructions. One area that Treasury gets involved in is PPP projects, in the procurement process, in the assessment process and then in a post-implementation sort of review role as projects are being constructed. It is our experience to date that not only are the guidelines as far

¹²⁷ As above.

¹²⁸ A Roberts and R Timbs, Committee Proceedings, 12 August 2009, p. 4.

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as sustainability being adhered to but developers and constructors are also embracing them...¹²⁹

5.28 When the former Chair then asked Mr Timbs whether Treasury used any methods other than gateway reviews to determine if environmental considerations were being incorporated into the procurement process, Mr Timbs responded:

Post-implementation gateway reviews are one way in which we can track whether sustainability considerations are being taken into account. The guidelines to agencies are very clear that sustainability elements must be built into processes and taken into account. We would expect that agencies are following those guidelines as laid down.¹³⁰

5.29 The Committee notes that in 2005, the Auditor-General undertook a compliance review of the use of state contracts by government agencies. Although the Auditor-General concluded that “the majority of agencies reviewed had implemented most of the requirements for the purchase of goods and services,” he also found that:

- half of the agencies reviewed did not have a current procurement plan in place, including NSW Treasury (Office of Financial Management) and the Department of Commerce; and
- some agencies did not obtain the requisite number of quotes when purchasing products that were not available through the contracts, including the Department of Commerce.¹³¹

5.30 As the Auditor-General’s review of agency use of State contracts illustrates, departments do not always adhere to guidelines and other directives, and reviewing departmental practice is a useful way of achieving compliance.

LACK OF INCENTIVES FOR SUPPLIERS

5.31 Evidence before the Committee suggests that there are insufficient inducements and penalties to encourage suppliers to provide environmentally friendly products.

5.32 As discussed above, government and non-government representatives provided different accounts of the extent to which the procurement process encourages suppliers to offer environmentally friendly goods and services. While Mr Timbs from Treasury stated that agencies make it clear throughout the procurement process that it is in the supplier’s self-interest to offer environmentally sustainable products, industry representatives and other commentators asserted that the winning bidders were most often those who offered the lowest initial purchase price.

5.33 Several commentators called on the Government to demand more from suppliers when it comes to providing environmentally friendly products. Mr Casey was one such commentator:

The industry collectively is really putting our effort behind [developing environmental standards]. But where government can help is, like, no we are going to demand that. I am thinking that is where you set the bar high, the environmental standards that are

¹²⁹ P McLeay and R Timbs, Committee Proceedings, p. 6.

¹³⁰ R Timbs, Committee Proceedings, p. 8.

¹³¹ Auditor-General, ‘Compliance Review of Agency Use of State Contracts’ in *Auditor-General’s Report to Parliament*, Volume 5, 2005, pp. 7 – 8, accessed 30 July 2009, at <http://www.audit.nsw.gov.au/publications/reports/financial/2005/vol5/007_ComplianceReviewofAgencyUseofGovernmentContracts.pdf>.

being adopted; you should not be looking at the lagging edge. We want the latest stuff. If you look at energy stars it is typically the top 25 per cent of the products for energy efficiency. That is one example. But it aims to be the lead not the lag.¹³²

- 5.34 Mr Higgins also told the Committee of a situation in which a supplier was not penalised for consistently failing to provide the environmentally friendly product he was contractually obliged to provide:

I remember the triple-seven contract that the Government had with retailers for its electricity supply. In that contract, for example, there was not, and I still think there is not, any penalty if the retailers cannot supply the required amount of green power. Often green power was not supplied [and no penalty was imposed]. The issue really is to clearly state what you want.¹³³

Differences across Governments and Agencies

- 5.35 One of the burdens facing suppliers is the different processes and standards used by governments and agencies with respect to sustainable products. The need for businesses to comply with multiple purchasing processes and requirements is disadvantageous for governments as well as suppliers because it reduces the capacity of suppliers to compete.

- 5.36 AIIA's submission specifically stated that it was opposed to a NSW specific sustainable procurement scheme.¹³⁴ A national approach, on the other hand, would "avoid the developing situation of Australian ICT suppliers facing multiple demands and approaches when attempting to accommodate the various sustainable procurement frameworks and policies of the various Australian governments."¹³⁵ Mr Kok-Wah Boey, Environmental Manager of Hewlett Packard, told the Committee that his organisation was also in favour of the harmonisation and recognition of existing standards.¹³⁶

- 5.37 The evidence of Ms Radisich indicated that this burden was particularly challenging for small businesses. As COSBOA's focus with respect to government procurement has been at the Federal level to date, Ms Radisich spoke of her attempts to break down barriers to access for small businesses at that level. According to Ms Radisich, the Federal Department of Innovation, Industry Science and Research "is very keen to influence the procurement policies... throughout the various departments to try to improve the access of small businesses to government work."¹³⁷ However, she went on to state

Whilst the DIISR is very keen to influence change and perhaps encourage cultural and attitudinal change amongst the entire Commonwealth, there are different procurement policies in every department, whether it is defence, education, health and so on. I think that will make their job very difficult, which will in fact make our job quite difficult to convey our messages across that whole of government.¹³⁸

¹³² S Casey, Committee Proceedings, p. 27.

¹³³ I Higgins, Committee Proceedings, p. 12.

¹³⁴ Australian Information Industry Association, Submission, p. 4.

¹³⁵ As above.

¹³⁶ K Boey, Committee Proceedings, 13 August 2009, p. 32.

¹³⁷ J Radisich, Committee Proceedings, p. 22.

¹³⁸ As above.

5.38 The Committee notes the importance of involving suppliers in any attempt to create a national scheme, not least because the Committee was told on more than one occasion that it is industry, and not Government, that is leading the way with respect to environmentally sustainable procurement. According to AIIA, for example, it has been working with governments and communities on “the critical issue of collecting and processing ICT waste equipment.”¹³⁹ According to AIIA:

The result is Byteback, a voluntary, industry-driven computer collection and recycling trial underway in Victoria and represents the industry's preferred e-waste recycling model. Established in 2007 with Sustainability Victoria, Byteback is providing important data and informing the development of a national scheme... AIIA is now seeking the cooperation of state and federal governments to develop appropriate national legislation to support this model.¹⁴⁰

¹³⁹ Australian Information Industry Association, Submission, p. 14.

¹⁴⁰ As above.

Chapter Six – Other Jurisdictions

6.1 Governments around Australia and the world have adopted a number of initiatives designed to make their purchasing practices more environmentally sustainable. Among the initiatives from which NSW can learn are those that focus on:

- Strategic planning;
- Leadership and responsibility;
- Communication;
- Education and training;
- Measuring and reporting;
- Stakeholder participation; and
- Support for procurement and purchasing staff.

QUEENSLAND

6.2 Sustainable procurement is identified as the key operational concept for Queensland's State Procurement Policy. The mandatory Policy has three primary objectives, which are advancing the Government's Priorities (among which are creating a strong economy and protecting the environment), achieving value for money and ensuring probity and accountability for outcomes.¹⁴¹

6.3 Leadership for government procurement is assigned to the Procurement Board of Management and the Chief Procurement Office, which is headed by the Chief Procurement Officer. The Board is charged with managing strategic procurement and advising the Director-General of Public Works. Among the Chief Procurement Office's responsibilities are providing support to the Board of Management and to the Procurement Council; leading procurement planning, capability and performance improvement; preparing an annual report on government procurement; and managing procurement training.¹⁴²

6.4 Every agency must develop a Corporate Procurement Plan that contains procurement objectives; a profile for the preceding 12 months; procurement systems, procurement strategies that will achieve stated objectives; and procurement measures, targets and annual comparisons against targets. Budget sector agencies must submit their Plans to the Chief Procurement Office at the end of every financial year.¹⁴³

6.5 The Policy states that "agencies must integrate the principles and practices of sustainability into the procurement of goods, services and construction," and that doing so means that they will avoid unnecessary consumption; consider suppliers' socially responsible practices; and determine value for money over the whole of the

¹⁴¹ Department of Public Works, *State Procurement Policy*, 2008, pp. 1 and 25, accessed 10 January 2010, at <http://www.qgm.qld.gov.au/02_policy/spp.htm>

¹⁴² As above, pp. 11 – 12.

¹⁴³ As above, p. 7.

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life of the goods and services rather than just the initial cost. The Policy also states that “agencies should seek to progressively increase the proportion of their procurement expenditure on sustainable goods and services from year to year” and that they must demonstrate this by including sustainability targets and strategies in their Corporate Procurement Plans.¹⁴⁴

6.6 Value for money is explored in detail, with the Policy stating upfront that “price is not the sole indicator of value” and that, in assessing value for money, agencies should consider the contribution to the advancement of Government Priorities; cost related factors such as whole of life and transaction costs; and non-cost factors such as fitness for purpose, quality, service and support. A table is used to illustrate that value for money concerns will differ depending on the nature of the procurement, such as whether it is a routine or specialised purchase.¹⁴⁵

6.7 With respect to setting their sustainable targets, the Policy asserts that agencies must set at least three targets from among the following categories:

- A specific proportion of the agency’s spend on goods and services;
- Product-based targets;
- Demand management targets;
- Other quantitative targets, such as the proportion of the agency’s suppliers which supply sustainable goods; and
- Qualitative targets, such as the assignment of responsibility for sustainable procurement outcomes to a senior staff member.¹⁴⁶

6.8 In addition, the Queensland Government’s Sustainable Procurement Roadmap (see Appendix B) provides a framework for agencies working towards more sustainable procurement. The Roadmap is made up of five destinations agencies must work towards, starting with Foundation (i.e. a foundation is in place to build capacity) and continuing through to Embed (i.e. sustainability is embedded in procurement targets, strategies and action plans), Practice (sustainability is embedded in procurement practice), Enhance (i.e. a strategic approach to sustainable procurement has been adopted and improvements are being made) and Lead (i.e. leadership is demonstrated through commitment and innovation). While the Roadmap guides the direction of progress and identifies key progress indicators, it does not promote specific actions in order to accommodate the different contexts within which agencies operate.¹⁴⁷

6.9 At the Committee’s hearing, Mr Martin made the following observations about Queensland’s sustainable procurement targets:

I would point out that one of the problems with New South Wales is the lack of reporting frameworks and the lack of clear targets. An example I might provide of a jurisdiction which is beginning to incorporate those things would be Queensland where their procurement policy requires agencies to select a number of environmental targets for their procurement and to report against them. I would qualify that by saying a weakness

¹⁴⁴ As above, pp. 32 – 33.

¹⁴⁵ As above, pp. 28 – 29.

¹⁴⁶ As above, p. 33.

¹⁴⁷ Queensland Government Chief Procurement Office, *The Queensland Government Sustainable Procurement Roadmap*, accessed 8 February 2010, at <http://www.qgm.qld.gov.au/10_sus_procure/threeb.htm>.

of that is that there is a list of targets. Agencies are allowed to choose a number of targets from those, and of course there is always the danger when you allow an agency to choose which targets it reports against that the targets that are chosen may be those that the agency is most confident it will perform well against. But, nevertheless, there are elements of that framework which I think could be recommended to other jurisdictions, subject to some qualifications about improvement that would be needed.¹⁴⁸

- 6.10 However, the Queensland Government appears to have endorsed the selection of easily attainable targets in the first instance in order to support agencies to meet their targets, rather than having to punish agencies that do not. In time though, “targets are required to be progressively reviewed and adjusted to reflect the increased sustainable procurement capability of agencies.”¹⁴⁹

VICTORIA

- 6.11 Victoria’s Environmental Procurement Policy is designed to assist agencies to procure goods and services in an environmentally sustainable manner by enabling them to incorporate environmental considerations into the Victorian Government Purchasing Board’s Procurement Policies on value for money, open and fair competition, accountability, risk management and transparency.¹⁵⁰ The Policy lists eight principles, seven of which are explored in more detail in the Environmental Procurement Good Practice Guidelines. The eighth principle, training and education, is to be implemented by the Procurement and Contracting Centre for Education and Research.¹⁵¹
- 6.12 The first principle is that agencies are to “purchase goods and services that have reduced impacts on the environment compared with competing products and services that achieve the same function and value for money outcomes.” As the explanatory notes state, this is relevant to both the planning phase of procurement as well as the determination of whole of life costs when selecting items.¹⁵²
- 6.13 The second principle is that departments are “responsible for addressing environmental procurement considerations and reporting on implementation.” Under this principle, departments must determine environmental procurement priorities; develop environmental procurement guidelines for high priority items (determined according to risk and influence); define approaches for medium and low priority items; and report on environmental procurement initiatives and actions when asked. The Guidelines state that reporting will be qualitative and focus on high priority goods

¹⁴⁸ L Martin, Committee Proceedings, p. 7.

¹⁴⁹ Department of Public Works, *State Procurement Policy*, p. 33.

¹⁵⁰ Department of Treasury and Finance, *Environmental Procurement Policy*, 2002, p. 1, accessed 15 February 2010, at <<http://www.vgpb.vic.gov.au/CA2575BA0001417C/pages/procurement-practitioners-stage-1---planning-step-3---develop-the-procurement-strategy-environmental-procurement-policy>>.

¹⁵¹ Department of Treasury and Finance, *Good Practice Guidelines on Environmental Procurement*, 2009, p. 5, accessed 15 February 2010, at <[http://www.vgpb.vic.gov.au/CA2575BA0001417C/WebObj/D0956519GUIDELINEWEBCOPYEnvironmentalProcurement/\\$File/D09%2056519%20%20GUIDELINE%20WEB%20COPY%20Environmental%20Procurement.DOC](http://www.vgpb.vic.gov.au/CA2575BA0001417C/WebObj/D0956519GUIDELINEWEBCOPYEnvironmentalProcurement/$File/D09%2056519%20%20GUIDELINE%20WEB%20COPY%20Environmental%20Procurement.DOC)>.

¹⁵² As above, p. 6.

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and services, although it also notes that key quantitative indicators may be developed with departments.¹⁵³

- 6.14 Defining environmental procurement priorities by assessing environmental risk and the ability to influence environmental outcomes is the third principle. To determine risk, agencies should consider the life cycle of a product, from the sourcing of raw materials to disposal. To determine capacity to influence, agencies should consider, among other factors, their ability to influence the market (through market share, for example); resource availability; and the presence of environmental labelling schemes.¹⁵⁴
- 6.15 In accordance with principle four, when determining value for money agencies should consider the total cost of ownership in meeting the department's business needs and procurement budgets. The Guidelines note that "one determinant of environmental value for money is cost effectiveness expressed as cumulative savings over time to compensate for any increase in initial purchasing costs, [with the] outcome of this calculation determining a payback period." However, it goes on to state that agencies "can purchase environmentally preferable goods or services that do not have a payback period within the life cycle period of the product, especially when those goods have a definable health and safety benefit."¹⁵⁵
- 6.16 Principle five states that departments "should consider where possible the inclusion of minimum environmental requirements in specifications" and the Guidelines provide further information on performance based specifications, eco-labelling and potentially relevant specifications at different stages of an item's life cycle.
- 6.17 Principles six and seven state that departments should consider the inclusion of environmental criteria when selecting suppliers where appropriate, and that relationships with suppliers should include the principle of continuous environmental improvement.
- 6.18 Victoria is also the home of Byteback, an industry-driven government-backed e-waste recycling programme that grew out of stakeholder collaboration.¹⁵⁶

AUSTRALIA

- 6.19 The Commonwealth Procurement Guidelines establish the core procurement policy framework within which agencies are to determine their own procurement practices. The primary procurement principles identified in the framework are value for money; encouraging competition; efficient, effective and ethical use of resources; and accountability and transparency. While the Guidelines do not refer to the environment or sustainable purchasing, its definition of value for money suggests that the environmental impact of purchases should be taken into account. According to the Guidelines, the value for money principle "requires a comparative analysis of *all*

¹⁵³ As above.

¹⁵⁴ As above, pp. 7 – 8.

¹⁵⁵ As above, p. 10.

¹⁵⁶ Australian Information Industry Association, Submission, p. 14.

relevant costs and benefits of each proposal throughout the whole procurement cycle (whole-of-life costing).”¹⁵⁷

6.20 The Department of the Environment, Water, Heritage and the Arts’ (DEWHA) website says that the federal Government is:

seeking to be at the forefront in environmental purchasing practice through:

- buying goods and services that seek to minimise possible environmental impact;
- working with industry to encourage continuous reduction in the adverse environmental impact of goods and services; and
- assessing the environmental impact of goods and services against informed and internationally recognised standards.¹⁵⁸

6.21 A range of laws, policies, agreements, etc. are listed as evidence of this. The *Environment Protection and Biodiversity Act 1999* stipulates that agencies must report on environmental matters in their annual reports, including by demonstrating how their activities have adhered to ESD principles; identifying how their departmental outcomes contributed to ESD; documenting their impact upon the environment and measures taken to minimise their impacts; and identifying the mechanisms in place to review and increase agency measures to minimise their environmental impacts.¹⁵⁹ The ESD Reporting Guidelines state that the activities the organisation may wish to discuss include the procurement process for goods and services, and that when describing the effect of the organisation’s activities on the environment agencies must discuss the operations of the organisation, such as the use of water, paper and energy.¹⁶⁰

6.22 While the Energy Efficiency in Government Operations Policy requires agencies to reduce their energy intensity and meet minimum energy performance standards,¹⁶¹ the National Government Waste Reduction and Purchasing Guidelines promote waste reduction and a reporting system to monitor that reduction.¹⁶² As a signatory to the National Packaging Covenant, the Commonwealth Government has agreed to promote the sustainable design, use and recovery of packaging, and the National Occupational Health and Safety Commission requires suppliers of hazardous materials to provide safety information on their products.¹⁶³ The National

¹⁵⁷ Department of Finance and Deregulation, *Commonwealth Procurement Guidelines*, December 2008, pp. 1 – 24, accessed 1 February 2010, at <<http://www.finance.gov.au/publications/fmg-series/procurement-guidelines/index.html>>.

¹⁵⁸ Department of the Environment, Water, Heritage, and the Arts, *Policy Framework for Greening of Government*, p. 1, accessed 16 February 2010, at <<http://www.environment.gov.au/sustainability/government/purchasing/policy.html>>.

¹⁵⁹ As above.

¹⁶⁰ Department of the Environment, Water, Heritage and the Arts, *Environmentally Sustainable Development Reporting Guidelines*, June 2003, pp. 4 and 7, accessed 15 February 2010, at <<http://www.environment.gov.au/epbc/publications/esd-guidelines.html>>.

¹⁶¹ Department of the Environment, Water, Heritage and the Arts, *Energy Efficiency in Government Operations Policy*, 2008, accessed 15 February 2010, at <<http://www.environment.gov.au/sustainability/government/eego/publications/eego.html>>.

¹⁶² Department of the Environment and Heritage, *Environment and Energy: Sustainable Procurement*, 2003, accessed 16 February 2010, at <<http://www.environment.gov.au/settlements/publications/government/purchasing/purchasing-guide/environment.html>>.

¹⁶³ As above.

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Greenhouse Strategy encourages agencies to take into account energy costs as well as capital costs when assessing and selecting goods and services.¹⁶⁴

6.23 In July last year, the Federal Government also made a commitment to appoint a Procurement Coordinator within the Department of Finance and Deregulation. Among other activities, the Coordinator is responsible for reviewing government procurement practices on an ongoing basis; explaining the Commonwealth procurement framework to external parties; handling complaints; aggregating information about Commonwealth procurement across procurement categories; and submitting an annual report on procurement matters to the Minister for Finance and Deregulation.¹⁶⁵

6.24 In the same statement in which the Government appointed the Coordinator, it made the following observations:

Value for money is achieved by encouraging competitive markets, adhering to non-discriminatory purchasing practices, and using efficient, effective, ethical and transparent procurement processes. Importantly, government agencies must assess value for money on a “whole-of-life” basis. This means that agencies take into account a range of considerations other than purchase price when determining what constitutes good value for money. Agencies are not forced to choose lowest-cost suppliers when that choice would in the long-run cost the taxpayer more through the purchase of inferior quality goods or high ongoing service costs, or when that choice would have detrimental social or environmental effects.¹⁶⁶

6.25 An additional means through which department heads may promote environmentally sustainable procurement practices is through Chief Executive’s Instructions (CEIs). The *Financial Management and Accountability Act 1997* authorises chief executives to instruct their staff on any matter that is necessary or convenient for carrying out the Act through CEI’s, which are seen as the “primary source of information and advice for [staff] on the internal financial management practices of an agency.”¹⁶⁷ As this suggests, it is not compulsory for chief executives to issue instructions on environmentally sustainable procurement in particular, however, it is a useful tool that can be used to that end. One such instruction for DEWHA, for example, is CEI 4.2 which states that staff “involved in the procurement of property or services must have regard for the Environmental Purchasing Guide to ensure that environmental concerns are integrated into procurement decisions.”¹⁶⁸

¹⁶⁴ As above.

¹⁶⁵ Australian Government, *Australian Government Procurement Statement*, July 2009, p. 4, accessed 16 February 2010, at <http://www.financeminister.gov.au/media/2009/docs/Australian_Government_Procurement_Statement.pdf>.

¹⁶⁶ As above, p. 2.

¹⁶⁷ Department of Finance and Administration, *Finance Circular No 2004/15: Chief Executive’s Instructions*, p. 1, accessed 16 February 2010, at <http://www.finance.gov.au/publications/finance-circulars/2004/docs/FC_2004-15.pdf>.

¹⁶⁸ Department of the Environment, Water, Heritage and the Arts, *Chief Executive’s Instruction 4.2: Procurement of Property and Services*, paragraph 10. The Environmental Purchasing Guide appears to be out of date and is thus not discussed here. The capacity to use CEIs to promote the Government’s commitment to environmental purchasing is nonetheless noteworthy.

UNITED KINGDOM

6.26 In May 2005, the UK Government established the Sustainable Procurement Task Force to examine how to lead the European Union in sustainable procurement by 2009.

6.27 The primary recommendations of the Task Force were to:

- **Lead by example** — a clear commitment from the very top of government and down through Permanent Secretaries, local authority members and chief executives in all public bodies. This should be cascaded down through government targets and performance management systems and progress monitored by external scrutiny bodies.
- **Set clear priorities** — rationalise the significant number of (sometimes competing) policies through procurement into a single integrated sustainable procurement framework which meets the test of policy salience and suitability for being addressed through procurement.
- **Raise the bar** — existing minimum standards for central government should be properly enforced and further standards (both minimum and forward-looking) should be developed in the priority areas identified. Work with suppliers to identify future needs and to phase out products and services that fall below minimum standards by 2009.
- **Build capacity** — address the problem of lack of unambiguous information and training, confused messaging and lack of tools showing how to put sustainability policies into practice. All procurement should be carried out by people whose procurement skills have been developed appropriately.
- **Remove barriers** (whether actual or perceived) and put in place the right budgetary mechanisms — whole of life costing was not being implemented in practice, the focus was on lower upfront costs and the Government Efficiency Programme was perceived to be a barrier to sustainable procurement. Other barriers included the split between management of operation and capital budgets and uncertainty on how to take account of non-monetary benefits.
- **Capture opportunities** for innovation and social benefits and to manage risk better through smarter engagement with the market — many suppliers felt that it was difficult to penetrate the public sector with innovative solutions and that there were missed opportunities for giving clear signals to the market.¹⁶⁹

6.28 The Task Force also developed a '**Flexible Framework**' (see Appendix C) of key behavioural and operational change programmes against which progress could be measured. This provided an overarching approach to help organisations understand and take the steps needed at an organisational and process level to improve procurement practice and to make sustainable procurement happen. The framework identifies stages of progression for five key themes:

- People;
- Policy, Strategy & Communication;

¹⁶⁹ Sustainable Procurement Task Force, *Procuring the Future: Sustainable Procurement National Action Plan: Recommendations from the Sustainable Procurement Task Force*, 2006, pp. 4 – 5, accessed 3 October 2009, at <<http://www.defra.gov.uk/sustainable/government/documents/full-document.pdf>>.

Other Jurisdictions

- Procurement Process;
- Engaging Suppliers; and
- Measurement & Results.

6.29 The Task Force also developed 10 priority areas for the UK Government based on an assessment of risk, scope to do more, and procurer influence. These areas were:

- Construction;
- Health and Social Work;
- Food;
- Uniforms, clothing and other textiles;
- Waste;
- Pulp, paper and printing;
- Energy;
- Consumables – office machinery and computers;
- Furniture; and
- Transport.

6.30 Since the Task Force's report, the UK Government has continued to promote sustainable procurement. It has now established:

- a **Chief Sustainability and Operating Officer**, with responsibility for the Office of Government Commerce's collaborative procurement, estates and sustainability agendas.
- the **Centre for Excellence in Sustainable Procurement** within the Office of Government Commerce. The Centre provides leadership on and a central focus for environmentally sustainable procurement and operations across the government estate and helps central government departments and their agencies meet their sustainable procurement and operations targets. Twice yearly the Centre publishes Delivery Plan Updates providing the most recent performance data on sustainable operations and procurement and details of cross government activities to meet targets and commitments.
- the **Sustainable Development Commission**, which produces evidence-based public reports on contentious environmental, social and economic issues, advises Government, responds openly to Government policy initiatives, invites debates on controversial subjects, and undertakes watchdog appraisals of Government's progress, including assessments of the Government's progress in implementing its sustainability action plans.
- the **Sustainable Procurement Action Plan**, which sets out the Government's policies, performance frameworks and procurement practices designed to make the UK a leader in sustainable procurement in the European Union.
- the **Government Delivery Plan for Sustainable Procurement & Operations on the Government Estate**.
- **Quick Wins** - minimum standards for purchase of certain products.

- 6.31 The Cabinet Secretary has also made sustainability one of four corporate priorities for the civil service and all Permanent Secretaries have delivery of Sustainable Operations on the Government Estate and the Sustainable Procurement Action Plan commitments in their personal objectives, and they are held personally accountable for the performance of their departments.¹⁷⁰

NEW YORK

- 6.32 New York State has an Interagency Committee on Sustainability and Green Procurement whose role is to develop an annual list of priority categories and products that minimise harm to the environment; develop environmentally sustainable procurement specifications for tenders and contracts; set goals to achieve reductions in waste produced and paper consumed; and develop strategies so that agencies can achieve those goals.¹⁷¹
- 6.33 Each agency must adopt Sustainability and Environmental Stewardship Programmes that are designed to achieve compliance with the Government's sustainable procurement policy; and appoint a Sustainability and Green Procurement Coordinator to train staff with the support of management, the Committee and the Director of Green Procurement.
- 6.34 A report of each agency's green purchasing activities must be submitted to the Committee each year for review. Discussion of the following topics is listed as mandatory:
- efforts regarding waste reduction and recycling;
 - recycled products procurement;
 - quantities of waste generated and materials recycled;
 - incentives and disincentives to waste reduction and recycling; and
 - recommendations for additional measures to encourage efficient use of the State's resources.
- 6.35 In addition, New York State has paid particular attention to green cleaning and green computers. With respect to the first, all schools in New York must use safer products "to reduce as much as possible exposures of children and school district staff to potentially harmful chemicals and substances...."¹⁷² With respect to the second, New York has regularly strengthened the environmental requirements of IT contracts and purchases. In 2006, purchases had to meet "80 PLUS" energy-efficiency requirements. In 2007, purchases had to meet particular EPEAT standards, which

¹⁷⁰ Office of Government Commerce, *Sustainable Procurement and Operations on the Government Estate: Government Delivery Plan*, August 2008, p. 2, accessed 3 October 2009, at <http://www.state.ny.us/governor/executive_orders/xeorders/eo_4.html>.

¹⁷¹ Governor of New York, *Executive Order No 4: Establishing a State Green Procurement and Agency Sustainability Program*, April 2008, accessed 30 July 2009, at <http://www.state.ny.us/governor/executive_orders/xeorders/eo_4.html>.

¹⁷² S Case, 'A New York State of Green', *Go Pro*, June/July 2008, p. 5, accessed 30 July 2009, at <<http://www.environmentalchoice.com/common/assets/medias/coverages/govprojuly2008-newyorkstategoesgreen-web.pdf>>.

Other Jurisdictions

relate to 50 environmental factors including energy efficiency and toxicity levels. In 2008, purchases had to meet EPEAT standards that were higher still.¹⁷³

- 6.36 According to the Commonwealth Government, it was the American Government's leadership on green computers that initially established the market for energy efficient machines. Although some manufacturers did not believe there was a market for green computers, they changed their minds when the US Government, whose computer purchases account for seven per cent of global sales, expressed a preference for them.¹⁷⁴

¹⁷³ As above, p. 6.

¹⁷⁴ Department of the Environment and Heritage, *Environmental Purchasing Guide*, 2003, p. 3, accessed on 16 February 2010, at <<http://www.environment.gov.au/settlements/publications/government/purchasing/purchasing-guide/pubs/purchasing-guide.pdf>>.

Chapter Seven – Facilitating Compliance

- 7.1 The NSW Government has adopted a range of policies, guidelines and initiatives in furtherance of its commitment to environmentally sustainable procurement. However, as outlined above, a number of barriers are undermining the capacity of government agencies to improve their performance in this regard.
- 7.2 The Committee found that actions to facilitate more effective implementation of the Government's sustainable procurement policies fell into five categories:
- assisting the people involved in the procurement process;
 - improving the implementation of policies through enhanced leadership and communication;
 - improving procurement processes;
 - improving dialogue with suppliers to foster innovative solutions and provide incentives to achieve desired outcomes; and
 - developing appropriate measures and targets.
- 7.3 As these categories correspond with the headings of "people", "policy, strategy & communications", "procurement process", "engaging suppliers" and "measurements & results" from the UK Sustainable Procurement Task Force's Flexible Framework, the committee has adopted those headings for its recommendations.

PEOPLE

- 7.4 People are central to the procurement process. Effective procurement requires an understanding of agency needs, an ability to analyse and assess the financial, economic, social and environmental cost of goods or services, and a knowledge of how to obtain the information necessary for such assessments.
- 7.5 To effectively perform these tasks, procurement officers need training, direction and support. In regards to sustainable procurement, the Committee was told of the need for improved:
- training on how to assess the environmental costs of goods and services;
 - sharing of good practices and innovations in how to improve sustainability outcomes; and
 - awareness of the need to address sustainability to achieve the Government's policy outcomes.
- 7.6 The importance of training and information sharing was brought out in the evidence provided by Mr Tout:
- I think what people could benefit from, to be quite frank, is better information and better practice. What are the success stories across government? The RTA has one strength in that procurement is almost part of its core business because it delivers infrastructure. Therefore, it has support staff that can benefit from the lessons learned at the front pointy end of the business. We have specialist environmental people engaged from whom you could take advice. Because of the nature of the beast, we have people who are highly trained in those areas. Other organisations do not have that luxury. Their core business has got nothing to do with procurement; that is an aside. When they

come to procure they really have got nothing to go on. It is what they think is a good idea on the day. If they had access to what are best practices, what do people like the RTA do, what do people like Sydney Water do, what do the health services do, what are their successes, it might help encourage their thinking. The other thing is probably training of procurement officers so that they start to think outside the square a little bit and get to know what other people are doing. ... If you think about procurement properly, environment will always be a consideration. But you have to be aware of it in the first place and what opportunities might exist.¹⁷⁵

7.7 The Committee agrees that improving the training and information provided to procurement officers should significantly improve the procurement outcomes for the NSW Government.

Recommendation 1

The Committee recommends that the Government ensure all procurement officers receive training on:

- i) incorporating environmental considerations into the request for tender development process;
- ii) incorporating environmental considerations into the tender selection process; and
- iii) engaging with suppliers on environmental issues.

Recommendation 2

The Committee recommends that the Government ensure that refresher training is available for all procurement officers on the latest developments in sustainable procurement.

Recommendation 3

The Committee recommends that the Government ensure that all purchasing staff receive training on:

- i) how to assess competing priorities (including price, safety, environmental credentials, etc) when buying products;
- ii) how to access information on the environmental performance of products; and
- iii) engaging with suppliers on environmental issues.

Recommendation 4

The Committee recommends that the Government establish an information sharing network for procurement and purchasing staff to enable, among other things, the exchange of information on best practice and soliciting of advice.

¹⁷⁵ R Tout, Committee Proceedings, pp. 44 – 45.

POLICY, STRATEGY & COMMUNICATION

- 7.8 The Government's procurement policy has the key principle of seeking value for money (being the benefits achieved compared to whole of life costs) and includes strategies aimed at achieving efficient resource allocation and clear agency accountability through appropriate support of the Government's economic, environmental and social objectives.
- 7.9 The Committee found, however, that the articulation and communication of that policy was not clear. In particular:
- the inclusion of the notion of 'cost neutrality' in the Environmental Management Guidelines at best confused and at worst undermined the principle of 'value for money'; and
 - there was a general lack of leadership and communication on how the policy should be implemented, including with respect to the tension between achieving value for money over the life of a product and minimising immediate budget impacts for the purchaser.

'Cost neutrality'

- 7.10 The Environmental Management Guidelines state:

In order to balance environmental considerations within 'value for money', the procurement process should also be based on the concept of cost neutrality. In other words, substituting the use of products with lower environmental impact costs where the overall effect on the agency's business is cost neutral or favourable...¹⁷⁶

- 7.11 Whatever its intended meaning, this can be understood to mean that the relative environmental impacts should only be considered between products that are first found to be price competitive. Also, that value for money assessments should only consider the impacts on the agency's business, rather than the value for the State as a whole. This contradicts the Government's 'value for money' policy and leads to a preference for price over value and the shifting of costs to other agencies or others in the community.
- 7.12 If this is not what is meant by 'cost neutrality', the guideline is nevertheless giving a mixed message that undermines the policy of 'value for money'. It provides an alternative principle to value for money by which procurement decisions can be made.

Recommendation 5

The Committee recommends that the Government remove the 'cost neutrality' principle from the Procurement Guidelines on Environmental Management and provide a clearer explanation of how 'value for money' is to be determined.

¹⁷⁶ Department of Commerce, *Procurement Guidelines on Environmental Management*, p. 4.

Value over price – the need for leadership and communication

- 7.13 The Government's procurement policy states that value for money, including the consideration of environmental costs, is the primary principle in procurement. The Sustainability Policy also gives clear signals that sustainable procurement is a Government priority, and provides incentives to agencies to reduce energy and water use by allowing them to keep the consequential savings.¹⁷⁷ The Committee nevertheless heard from a number of witnesses that price rather than value was the dominant consideration in many instances.
- 7.14 This indicates to the Committee that more needs to be done to drive home the Government's message that value rather than price is the dominant consideration and to provide incentives for agencies to look beyond immediate costs to the State's long term gains.
- 7.15 The Committee notes that other jurisdictions have addressed these issues by establishing specific bodies to promote and measure value for money and sustainability in procurement, including sustainability provisions in senior executives' employment contracts and otherwise signalling from the highest level that sustainability is a priority.

Recommendation 6

The Committee recommends that the Government establish whole-of-government and departmental leadership on the issue of environmentally sustainable procurement by identifying the persons or bodies that are best placed to promote the Government's goals.

PROCUREMENT PROCESS

- 7.16 The Committee was satisfied with the overall procurement processes that were outlined in evidence to the inquiry. The 10 step process, with six gateway reviews examining, among other things, environmental, social and economic considerations seems to be an appropriate system. Nevertheless, it appears to have some elements that could be strengthened. In particular, there is scope for improving the quantity and quality of information available to procurement and purchasing officers, and obtaining a better understanding of the gap between policy and practice.
- 7.17 As noted above, there are increasing examples of how better information about the environmental impacts of products, improved techniques for assessing comparative costs, and innovation in reducing environmental costs has frequently led to better value procurement. There is a need for increased awareness of the potential for improving the value of procurement and the provision of information and methodologies that enable this to be achieved.
- 7.18 The above recommendations regarding the establishment of robust training and information sharing mechanisms go some way to filling this need. However, the Committee would like to draw attention to the disconnect between the perceptions among departmental heads about the information available to lower level officers, and the extent to which those officers access and use that information. The differing

¹⁷⁷ Department of Environment and Climate Change, *Sustainability Policy*, p. 8.

accounts of the efficacy of Greenbuy, and of the role the initial purchase price plays in purchasing decisions, provide two examples of this.

- 7.19 The Committee is concerned that departmental heads were not aware of the gap between the procurement steps they believed were being undertaken and the procurement steps that were in fact being undertaken.

Recommendation 7

The Committee recommends that the Government review how its procurement processes, including Greenbuy and the guidance available to staff, are being carried out so that it can ensure that staff are acting in accordance with its commitment to environmentally sustainable procurement.

ENGAGING SUPPLIERS

- 7.20 Agencies need to be able to use the expertise and resources of suppliers to develop more efficient and effective means of delivering the outcomes agencies require. This can sometimes be achieved by involving suppliers in the design of tenders so that specifications foster rather than stifle innovation and generate competition around more efficient means of achieving objectives rather than around the price of delivering a predetermined solution.
- 7.21 However, there are inherent difficulties in increasing the involvement of suppliers in the design of tenders while maintaining a fully open and competitive process. Care must be taken to maintain the probity of the process while opening it up to greater input about what agencies should be seeking from the market.
- 7.22 In addition, as the Committee's inquiry has shown, suppliers are able to offer valuable feedback on the Government's procurement policies and how they are being implemented by agency staff. Although the Government may ultimately disagree with the opinions or accounts of some suppliers, being aware of supplier perceptions of the strengths and weaknesses of the Government's policies and practices will assist the Government to build a more robust procurement system.

Recommendation 8

The Committee recommends that the Government establish opportunities for ongoing dialogue with suppliers, including by:

- i) working together to develop sustainable solutions for agency procurement needs; and
- ii) obtaining feedback on the environmentally sustainable procurement policies and practices of government agencies.

MEASUREMENTS & RESULTS

- 7.23 The Government has a range of measures and targets in place that touch on environmentally sustainable procurement.

Facilitating Compliance

- 7.24 In particular, the Government's Sustainability Policy includes reporting frameworks for waste, purchasing energy and water efficient appliances, energy and water use and car fleet use. This helps drive action in these areas and a recent audit has indicated particularly positive outcomes with regard to waste and recycling.
- 7.25 However, while change is being effected in these target areas, the evidence received by the Committee indicates inconsistent performance across procurement in general, with the Committee hearing of instances of both innovation leading to improved value, and of a focus on price leading to missed opportunities.
- 7.26 The Gateway Review System, where procurement processes are reviewed at critical points for, among other things, sufficient consideration of environmental factors, is a commendable scheme that should lead to consistently high observance of the procurement policy. It appears, however, that this is not always the case,
- 7.27 Some agencies have developed their own sustainability policies that set measurable targets for improvement. The Committee commends this approach as it helps agencies to focus on areas and practices where the greatest value can be obtained and provides a framework for improvement.
- 7.28 The Committee is of the view that the Government requires a means to better measure agencies' progress in delivering more sustainable procurement generally, in addition to the target areas within the Sustainability Policy. This will give agencies a better understanding of their performance and how it could be improved, and to more clearly communicate the priority the Government assigns to sustainable procurement.
- 7.29 In this regard, the Committee commends the UK Sustainable Procurement Task Force's Flexible Framework. The Flexible Framework focuses on the five areas the Committee identified as requiring attention in the NSW Government's procurement system and provides a measure by which agencies can assess the quality of their procurement systems in these areas and a guide to how they can be improved. By providing a range of levels from foundational to leading, the framework remains applicable to agencies at varying stages of development in each of the focus areas.
- 7.30 The Committee notes that the Queensland Government appears to have adapted the Flexible Framework in developing its Sustainable Procurement Roadmap.

Recommendation 9

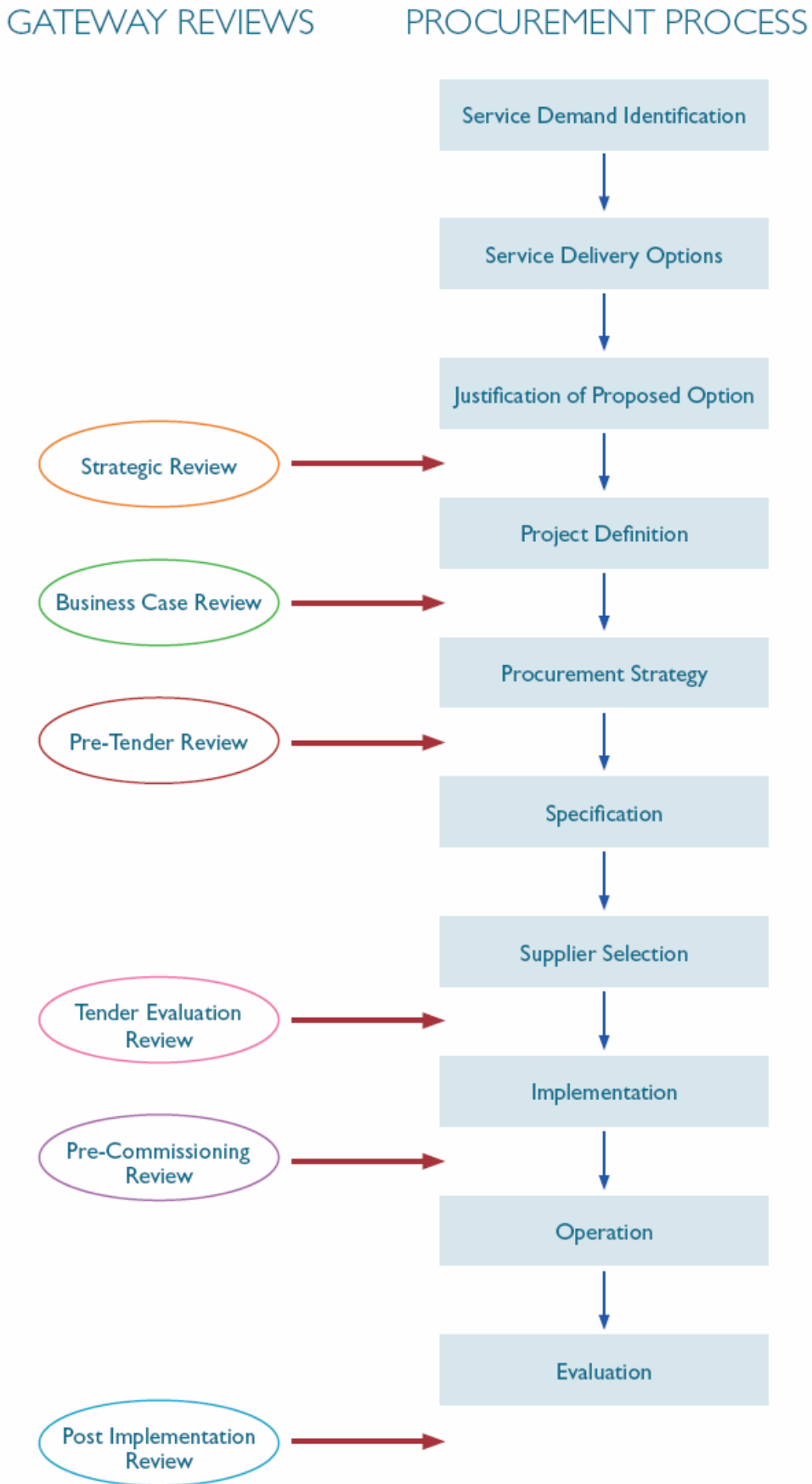
The Committee recommends that the Government require all agencies responsible for procurement to provide an annual assessment of their procurement systems against the UK Sustainable Procurement Task Force's Flexible Framework (adapted to NSW where required).

- 7.31 The Committee is concerned about the inefficient and, particularly in the case of small business, onerous burden the different procurement processes and standards place on suppliers. It is beneficial for both government and suppliers if companies are able to focus their efforts on delivering more sustainable goods and services, rather than meeting the different administrative requirements of each jurisdiction's procurement regime.
- 7.32 In addition, consistency of measures between jurisdictions provides more meaningful information, which allows more effective management, benchmarking and easier comparison of different products, services and procurement systems.

Recommendation 10

The Committee recommends that the Government work with other governments, including the governments of Australia and New Zealand in particular, as well as suppliers, industry representatives, environmental organisations and other relevant stakeholders to harmonise environmentally sustainable procurement processes, standards and reporting requirements.

Appendix A – Gateway Review



Appendix B – Queensland's Sustainable Procurement Roadmap

The Sustainable Procurement Roadmap



This chart depicts the destinations that an agency will progress through in moving towards implementing sustainable procurement principles. All agencies start at the Foundation level and progressively build their sustainable procurement capability over time, successively moving through the destinations towards the goal of sustainable procurement.

Progress towards sustainable procurement (SP) – over time

Destination 1 – Foundation – Indicative Measures					
Policy & Leadership <ul style="list-style-type: none"> ▪ Explicit policy statement on SP with senior management commitment ▪ Senior level champion engaged to drive SP in agency. Internal working group established.	Strategy & Targets <ul style="list-style-type: none"> ▪ The agency has developed an action plan to implement SP initiatives 	People & Culture <ul style="list-style-type: none"> ▪ Staff have received SP training. 	Processes & Practices <ul style="list-style-type: none"> ▪ Conduct spend analysis across agency ▪ Conduct risk assessment in relation to spend/ risk/ impact & opportunity ▪ Set targets 	Business Systems Implementation tools identified	Measurement & Reporting <ul style="list-style-type: none"> ▪ Conduct annual review and report to cabinet and incorporate update into CPP for following year.

Appendix C – UK Sustainable Procurement Task Force Flexible Framework

	Foundation Level 1	Embed Level 2	Practice Level 3	Enhance Level 4	Lead Level 5
People	Sustainable procurement champion identified. Key procurement staff have received basic training in sustainable procurement principles. Sustainable procurement is included as part of a key employee induction programme.	All procurement staff have received basic training in sustainable procurement principles. Key staff have received advanced training on sustainable procurement principles.	Targeted refresher training on latest sustainable procurement principles. Performance objectives and appraisal include sustainable procurement factors. Simple incentive programme in place.	Sustainable procurement included in competencies and selection criteria. Sustainable procurement is included as part of employee induction programme.	Achievements are publicised and used to attract procurement professionals. Internal and external awards are received for achievements. Focus is on benefits achieved. Good practice shared with other organisations.
Policy, Strategy & Communications	Agree overarching sustainability objectives. Simple sustainable procurement policy in place endorsed by CEO. Communicate to staff and key suppliers.	Review and enhance sustainable procurement policy, in particular consider supplier engagement. Ensure it is part of a wider Sustainable Development strategy. Communicate to staff, suppliers and key stakeholders.	Augment the sustainable procurement policy into a strategy covering risk, process integration, marketing, supplier engagement, measurement and a review process. Strategy endorsed by CEO.	Review and enhance the sustainable procurement strategy, in particular recognising the potential of new technologies. Try to link strategy to EMS and include in overall corporate strategy.	Strategy is: reviewed regularly, externally scrutinised and directly linked to organisations' EMS. The Sustainable Procurement strategy recognised by political leaders, is communicated widely. A detailed review is undertaken to determine future priorities and a new strategy is produced beyond this framework.
Procurement Process	Expenditure analysis undertaken and key sustainability impacts identified. Key contracts start to include general sustainability criteria. Contracts awarded on the basis of value-for-money, not lowest price. Procurers adopt Quick Wins.	Detailed expenditure analysis undertaken, key sustainability risks assessed and used for prioritisation. Sustainability is considered at an early stage in the procurement process of most contracts. Whole-life-cost analysis adopted.	All contracts are assessed for general sustainability risks and management actions identified. Risks managed throughout all stages of the procurement process. Targets to improve sustainability are agreed with key suppliers.	Detailed sustainability risks assessed for high impact contracts. Project/contract sustainability governance is in place. A life-cycle approach to cost/impact assessment is applied.	Life-cycle analysis has been undertaken for key commodity areas. Sustainability Key Performance Indicators agreed with key suppliers. Progress is rewarded or penalised based on performance. Barriers to sustainable procurement have been removed. Best practice shared with other organisations.
Engaging Suppliers	Key supplier spend analysis undertaken and high sustainability impact suppliers identified. Key suppliers targeted for engagement and views on procurement policy sought.	Detailed supplier spend analysis undertaken. General programme of supplier engagement initiated, with senior manager involvement.	Targeted supplier engagement programme in place, promoting continual sustainability improvement. Two way communication between procurer and supplier exists with incentives. Supply chains for key spend areas have been mapped.	Key suppliers targeted for intensive development. Sustainability audits and supply chain improvement programmes in place. Achievements are formally recorded. CEO involved in the supplier engagement programme.	Suppliers recognised as essential to delivery of organisations' sustainable procurement strategy. CEO engages with suppliers. Best practice shared with other/peer organisations. Suppliers recognise they must continually improve their sustainability profile to keep the clients business.
Measurements & Results	Key sustainability impacts of procurement activity have been identified.	Detailed appraisal of the sustainability impacts of the procurement activity has been undertaken. Measures implemented to manage the identified high risk impact areas.	Sustainability measures refined from general departmental measures to include individual procurers and are linked to development objectives.	Measures are integrated into a balanced score card approach reflecting both input and output. Comparison is made with peer organisations. Benefit statements have been produced.	Measures used to drive organisational sustainable development strategy direction. Progress formally benchmarked with peer organisations. Benefits from sustainable procurement are clearly evidenced. Independent audit reports available in the public domain.

Appendix D – Submissions

1. LinkAsea Pty Ltd. – 23 January 2009
2. Hewlett-Packard Australia Pty Ltd – 16 February 2009
3. Solitary Group Pty Ltd – 17 February 2009
4. Environmental Defender's Office (NSW) Ltd – 25 February 2009
5. NSW Minister for Education and Training – 11 March 2009
6. Total Environment Centre Inc. – 13 March 2009
7. Local Government and Shires Associations of NSW – 13 March 2009
8. Good Environmental Choice Australia – 17 March 2009
9. Private citizen – 17 March 2009
10. Australian Steel Institute – 3 April 2009
11. Sustainability Assessment Program – 3 April 2009
12. Sydney Metropolitan Catchment Management Authority – 3 April 2009
13. Minister for Community Services – 6 April 2009
14. Minister for Health – 21 April 2009
15. NSW Treasury – 21 April 2009
- 15a. NSW Treasury (Supplementary submission) – 2 October 2009
16. Minister for Roads – 23 April 2009
17. Minister for Transport – 3 July 2009
18. Australian Information Industry Association – 13 August 2009

Witnesses

Appendix E – Witnesses

Mr Richard Timbs

Deputy Secretary
Office of Infrastructure Management
NSW Treasury

Mr Graeme Head

Director-General
Department of Services, Technology and Administration

Mr Tim Rogers

Executive Director
Departmental Performance
Management and Communication
Department of Environment, Climate Change and Water

Mr Bernard Carlon

Divisional Director
Sustainability Programs Division
Department of Environment, Climate Change and Water

Ms Suzanne Little

Environmental Scientist
Sydney Metropolitan Catchment Management Authority

Mr Leigh Martin

Urban Campaigner
Total Environment Centre

Mr Ian Higgins

Chief Executive Officer
Good Environmental Choice Australia

Dr Greg Peters

Senior Lecturer/Senior Research Fellow
Centre for Water and Waste Technology
UNSW Sustainability Assessment Program

Mr Mike Hedley

NSW Executive Director
Australian Information Industry Association

Ms Loretta Johnson

General Manager
Policy and Government Relations
Australian Information Industry Association

Mr Ramsay Moodie

Former Director
Corporate Affairs
Fuji Xerox Australia Pty Ltd.
Appearing for Australian Information Industry Association

Mr Sean Casey

Government and Enterprise Business Development Manager
Intel Australia
Appearing for Australian Information Industry Association

Ms Jaye Radisich

Chief Executive Officer
Council of Small Business Organisations of Australia

Mr Kok-Wah Boey

Environmental Manager – South Pacific
Hewlett Packard Australia

Mr Ari Palandjian

ISS Product Marketing Manager
Hewlett Packard Australia

Mr Seb Crawford

Project Officer
Sustainable Choice
Local Government and Shires Associations

Mr Robert Verhey

Strategy Manager for Environment
Local Government and Shires Associations

Mr Rod Tout

Director
Corporate Services
Roads and Traffic Authority

Mr Peter Wellings

General Manager
Infrastructure Contracts
Roads and Traffic Authority

Mr Paul Hopkins

Chief Procurement Officer
Department of Education and Training

Mr Peter Troy

Strategy Manager
Procurement Strategy
Department of Education and Training

Mr Ian James

Tender Officer
Department of Education and Training

Mr David Gates

Chief Procurement Officer
NSW Department of Health

Witnesses

Mr Gerald Kohn

Deputy Director
Strategic Procurement
NSW Department of Health

Mr Peter Rowley

Chief Executive Officer
State Transit Authority

Mr David Gosling

Manager
Environment
State Transit Authority

Mr Donald Nolan

Manager
Contracts and Procurement
State Transit Authority