



NSW Nation Building and Jobs Plan Taskforce

Responses to Additional Questions on Notice: Inquiry into the Building the Education Revolution program to NSW Nation Building and Jobs Plan Taskforce

Questions from Hon Robyn Parker MLC:

1. **Back in April this year, as the NSW Government Infrastructure Coordinator General, you issued the NSW Government with a glowing report card on their handling of the BER funds. Only 10 days ago Verity Firth was forced to suspend payments to Laing O'Rourke due to problems at Tottenham Public School, which had been raised for months by their P&C. Given your glowing report card from April – do you think that you spoke too soon?**

I make no apology for distributing my *12 Month Report Card* in April 2010. NSW has consistently led the nation in achieving the stimulus required to support the current economic climate we enjoy by delivering both the Building the Education Revolution and New Social Housing programs. Given that NSW has about one-third of the national program, this is a significant and demonstrable achievement.

From my perspective, as Infrastructure Coordinator General, NSW has made history in rolling out the \$7 billion Stimulus program so quickly and so effectively with just a handful of problems, most of which can be resolved.

By 30 June 2010:

- **Housing** - Over 1,000 of a total of 6,300 social housing dwellings have been delivered. Only 150 are left to commence construction. This is a phenomenal achievement in just 15 months, from a standing start.
- **Education** – The National School Pride and Science and Language Centre programs are all but complete. While under the larger more complex P21 program, more than 2,300 projects are under construction and 550 have already been handed over to school communities to use (this is more facilities than the total of the entire number of projects in the Catholic system). Again, a phenomenal achievement.

These performances demonstrate that I did not speak too soon. I can only presume that the Minister's action(s) on Tottenham was a management measure to improve outcomes for an individual case. As I mentioned above, there is no doubt that in a program this size, there will be individual issues which need to be dealt with.

The true measure of the Nation Building – Economic Stimulus Program is ensuring economic recovery, job creation and delivering an asset base for future generations. That is what is being done.

We have come through this potentially disastrous economic situation, avoiding thousands of jobs losses across the State. We are entitled to showcase these achievements.

2. Are you due to conduct any more reviews or reports on behalf of the NSW Government into the NSW Government's handling of the BER? If so, when are these to be released?

One of the functions of the Infrastructure Coordinator General under the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 is "to plan and oversee a program for the delivery of infrastructure within the timeframes required for commonwealth funding". Oversight by the ICG will therefore continue until the delivery is complete.

3. Can you explain the logic in applying the different managing contractor fees, specifically Fee A and Fee B? Under the fee structure, managing contractors who employ outside builders to carry out the work are paid "Fee A", which averaged 11%. Managing contractors who use in-house builders are paid "Fee B", which averaged 15%.

I note that a copy of the tender assessment for the Managing Contractor has been provided to the Committee by the DET. That document sets out the actual fees tendered, and accepted for each managing contractor.

It is important to note, that the fees you refer to are paid for services that have been performed by the Managing Contractors. The percentages quoted by you are not retained by the managing contractors as profit. The services provided by the Managing Contractors are extensive and include:

- scoping schools from concept to detailed design, which can include multiple visits to schools to discuss and confirm scope with Principals/P&C's etc and includes requirements for community use;
- planning approvals, including full documentation;
- stakeholder liaison, including local council, RFS, Heritage etc;
- coordination of consultant assessments and reports, including bushfire, heritage, environment, architect, engineer, etc;
- cost planning and estimating, which can include multiple rounds evaluating different options requested by the school;
- site investigation and analysis, including geotech, ground contamination management;
- manage and coordinate design, which can include multiple rounds evaluating different options requested by the school;
- project documentation;
- tendering works;
- selection of contractors/trades;
- site supervision;
- contract management and administration, including variations;
- site management, including OH&S (safety) and industrial relations;
- personnel security screening for child protection;
- financial performance;
- quality assurance, audit and performance; as well as
- meeting broader government objectives, including upskilling industry, apprenticeship targets, Aboriginal participation.

These services are necessary to deliver the projects and would have to be performed whether by the MC's or by a combination of departmental staff, consultants, project managers and builders.

To provide best value through using each managing contractor's individual capabilities, each tenderer was invited to submit fees on two bases.

Fee A relates to projects where more than 85 percent of the subcontractor costs are delivered under one single subcontract between the Managing Contractor and another builder. That builder would in turn subcontract with trades based contractors such as concretors, bricklayers, plumbers, tilers, plasterers, painters etc. Fee B is where less than 85 percent of the work is delivered under one single subcontract, thus requiring the managing contractors to enter into multiple contracts with individual trades based and other contractors.

In Fee A, the builder, procured by the Managing Contractor, takes on the functions and the risks of the day to day delivery of the project including coordinating all the trade subcontractors and managing the interfaces, tendering and letting the trade packages and managing the site on a daily basis including provision of site security and permanent site supervision.

Fee B occurs where the Managing Contractor lets contracts directly for a range of services including for trade contractors (plumbers, electricians, carpenters, gyprockers etc). In most areas the trades that are employed by the managing contractors will be drawn from the available pool of **local** trades people. In some circumstances, such as small remote communities, local trades persons are not available requiring the managing contractors to import trades from other areas.

With Fee B the managing contractor effectively performs the role of the builder in addition to their other functions and as a result is paid an additional amount to cover the cost of performing these services and the risks of multiple contracts.

The rationale behind including both Fee A and Fee B delivery model was to allow for the maximum flexibility in delivery approach. On many occasions this has been vital to ensure the timely delivery of the program. In certain areas there has been a shortage of available builders and trades. In response to the shortage the Managing Contractors have switched delivery models to provide the missing function.

I also wish to stress that compared to the Project Management model used in other jurisdictions, the Managing Contractor model is the only model that transfers many risks to contractors. For example, a common issue is where it is not clear as to whether a defect in a building is caused by the design or the construction. A Managing Contractor carries this risk. A Project Manager does not. Following NSW's success, other jurisdictions have used the Managing Contractor model for subsequent rounds of the P21 program. Additionally, a Construction Management model can only be undertaken at a later stage once the design, planning and scoping phases had been completed.

4. Would you suggest that this would encourage the 7 managing contractors, which are based in the cities, to employ tradesmen and builders from locations outside of the school's local area, when in reality local builders could have probably provided lower and more cost effective quotes, and stimulated local employment?

This is definitely not the case. The Managing Contractors are required to give work to builders in local areas. This is mandated in their contracts.

Local builders were and are being given the opportunity to tender. In fact, throughout June and July 2009, Managing Contractors engaged in over 20 Local Employment Forums across the State to encourage local builders and tradespersons to tender for projects under the Building the Education Revolution program.

There could be any number of reasons why different local builders did not secure contracts, including:

- not considered capable of meeting the contractual conditions;
- not having had the required skills to undertake the task;

- not being able to meet the safety and occupational health requirements;
- may not be suitably qualified; or
- may not have been the best value for money, ie least cost to achieve ALL objectives.

Indeed, one Managing Contractor has reported that 82 percent of their works are done by local contractors.

On a very positive note, there are numerous local regional builders who have reported to the Taskforce the upskilling and training that they have received from Managing Contractors, which will enable them to quality for future Government work.

5. What was the reason for discouraging NSW Government schools and principals from self-managing their BER projects?

I am unapologetic about setting the bar high for NSW government schools to manage their own Building the Education Revolution projects. A lot was required of Principals, outside of their already busy schedule, if they were going to self-manage their project. This was not a time for learning complex project management skills on the job. If the projects are not delivered on time, the NSW Government would have to foot the bill for the project. This remains the case.

While some school principals were initially keen to project manage the works in their schools, I was also very keen for them to understand the full extent of what would be required. The requirements I established are standard in the industry, and/or reflect the particular requirements of the Commonwealth.

The requirements sent to the School Principals included:

- a project contingency of 10 percent is to be allowed and will only be committed to be spent with the specific approval of DET;
- the project schedule will identify key milestones where failure to meet these milestones may result in DET stepping in and taking over the project;
- works must be managed by an experienced professional project manager;
- only appropriately qualified and licensed trades people are to be engaged;
- projects must comply with all the relevant statutes, regulations, by-laws and the requirements of Australian Government, NSW Government, local authorities, and the Department of Education and Training including the school facilities standards and information technology standards;
- projects must comply with infrastructure requirements, standards and state infrastructure planning which may impact on the capacity of a project to be insured, maintained, secured or integrated into the school infrastructure;
- building works must be approved by the Minister for Education and Training (the Asset Management Unit may approve as delegated) as the owner of the land to ensure they align with services and future plans for the site;
- projects must have relevant planning approvals including the approval of the local government and the Department of Education and Training;
- tendering must meet the NSW Government Capital Procurement and Tendering requirements as summarised in chapter 3.5 and 3.6 of the Public Finance Audit Act;
- Department of Education and Training Financial delegations must be complied with. Delegations relate to a complete project and not individual purchase elements;
- at the conclusion of the project, work as executed drawings and asset data must be provided to the AMU so proper maintenance and cleaning can be scheduled;

- works must be undertaken and completed within the Commonwealth Government's stimulus package timeframes. If your project is delayed (even if it is because there were supply problems or unforeseen circumstances) your school will become liable for any unfinished work. *For example if your school hall 'fit out' hasn't been completed by the end of the timeframe* Department of Education and Training **will not be able to fund the fit out**. There is no extra money on standby if you don't meet your timeframes;
- child protection is an important issue for all schools to consider. Making sure that all workers on site are properly supervised at all times and that the proper work methods are in place to ensure your school children are protected is your responsibility;
- School Principals will be required to report both weekly and monthly to Department of Education and Training and the Commonwealth Government via the Taskforce Chairman on the progress of the project including expenditure, progress, jobs and apprenticeships. If you fail to do so the Commonwealth Government may at any given time cease the funding of your project. Department of Education and Training will not be able to fund any unfinished work if this happens;
- works must be completed within the approved funding allocation and scope, this includes all associated works to enable the project to become operational. For example, if you discover part way through the planning of your project that you need a power upgrade, a sewer upgrade or any other extra work to make the project operational, this must be done from within your Building the Education Revolution funding allocation. Department of Education and Training will not be able to provide additional funding and your school could be liable for hundreds of thousands of dollars worth of extra building work;
- all designs must comply with the School Facilities Standards, design templates, Building Codes of Australia and must comply with the environmental undertakings stipulated by the Commonwealth Government as part of Building the Education Revolution funding;
- while your local AMU will do their best to give you some assistance, the advice they can provide will be limited because of the size and complexity of Building the Education Revolution projects, and they must also continue to deliver all of the NSW Government funded school capital works and maintenance projects;
- if someone who is working on your school Building the Education Revolution project is injured (and this can include students who wander onto the site) you, as Principal and site controller will have to prove to WorkCover that you took all possible steps to prevent that accident taking place; and
- there are fines attached to any injuries that happen on building sites. The Department of Education and Training can be liable up to a maximum of \$550,000 for any accidents or injuries on these sites and the school Principal (as project manager) can be separately and personally liable for up to \$55,000 for any injuries or accidents that happen on your site.

In forming a view as to whether a school should be permitted to project manage the works at their school, I took into account the capacity of the school/school community, the impact on the overall delivery of the program and any financial or other impact on the managing contractors by withdrawing this school from their overall scope of works.

In order to manage the entire program with certainty of outcomes, vast numbers of individual schools self-managing would reduce quality control, coordination, purchasing and delivery efficiencies. Local school management would increase management and administrative cost, issues management and contractual issues would be extensive resulting in a program that would be uncontrollable in respect to the key variables of time, quality, cost and safety. The Minister would effectively have no control, yet under Commonwealth funding arrangements would remain accountable.

Notwithstanding these aspects I was prepared to allow schools to self-manage if they demonstrated the capability and the capacity. Subsequent events have proven that only one school has been successful. School principals are education specialists, not project managers.

6. What is the total annual Budget of your office for 2008-2009 and 2009-2010?

My office provides two broad sets of functions – those related to delivery and those related to planning approvals. The 2008-09 budget was \$1.8 million. The 2009-10 budget was \$6 million, of which \$3.1m was expended assessing and approving over 900 government and non government statutory planning applications for Nation Building projects largely across the education and housing programs in just 12 months. This funding has been provided by the State, not the Commonwealth.

7. What is the Budget for 2010-2011?

\$4.6 million (State funds).

8. How many staff (FTE) work in your office?

As at 30 June 2010, there were 13 full-time equivalent positions in the Office. The number has varied with time. For example the planning approval function which has delivered over 900 fully merit assessed planning approvals - worth greater than \$1.8 billion - over the last twelve months occurred within this office and there was consequently a peak of casual staff to undertake this massive task..

9. How many of these staff work specifically on the BER? What are their total annual salaries?

None. The teams in the Taskforce Office work across both programs and are not split with responsibilities for either Building the Education Revolution or Housing.

Indeed, the Integrated Program Office was established within the Department of Education and Training to deliver the Building the Education Revolution program.

The role of the NSW Nation Building and Jobs Plan Taskforce is to oversee the rapid and successful delivery of the Nation Building – Economic Stimulus Plan in NSW, particularly in the Social Housing and Public Education sectors, with its focus on immediately stimulating the NSW economy.

10. What is your total annual salary, including any fuel, telephone, travel, accommodation allowance?

My annual salary of \$420,000 is for the various roles I hold for the NSW Government, including Chair of the Health Infrastructure Board, Infrastructure Coordinator General and Chair of the NSW Nation Building and Jobs Plan Taskforce.

As Chair of the Health Infrastructure Board, I am responsible for the delivery of the NSW Government's hospital building program, totalling \$1.5 billion per annum. This includes the delivery of the \$1.1 billion redevelopment of Royal North Shore Hospital and Orange Base Hospital.

In February 2009, I was appointed as the Infrastructure Coordinator General and Chairman of the NSW Nation Building and Jobs Planning Taskforce. My role is response for overseeing and coordinating the NSW Housing and Education components of the Commonwealth Government's Nation Building – Economic Stimulus Plan (over \$7 billion in two years).

In addition, I am also a Trustee of the Sydney Opera House and Chair of its Building Committee and have been involved in the redevelopment of the Sydney Opera House. Less than \$2,000 has been paid in respect to telephone and travel.

11. With the benefit of hindsight, how should the NSW Government have changed the way that the BER program was rolled out?

AND

12. What lessons have you learnt from the BER? What would you change?

The Managing Contractor model provides the shortest development time, particularly when the scope is not defined. I would not change this model. The following measures would however have been advantageous to the roll out of the program if time had been available (which it was not, as agreed by the Commonwealth and all states and territories at COAG in February 2009):

- A review of the School Facilities Standards and its State-wide applicability.
- Obtain full budget control from the Commonwealth, allowing greater flexibility to move scope and budgets to suit school needs (much like the flexibility given to the Catholic schools).
- Provide a broader shopping list to school principals.