

INQUIRY INTO THE BUILDING THE EDUCATION REVOLUTION PROGRAM

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NSW Nation Building and Jobs Plan Taskforce

Submission to General Purpose Standing Committee No 2 - Inquiry into the Building the Education Revolution Program

Introduction

This submission to the General Purpose Standing Committee No 2's Inquiry into the Building the Education Revolution program, which is one element of the greater Nation Building - Economic Stimulus Plan (NBESP), has been prepared in my role as the NSW Infrastructure Coordinator General (ICG).

The role of the ICG was established in March 2009 with bipartisan support through the *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009*. Its primary function is to "plan and oversee a program for the delivery of infrastructure projects within the timeframes required for Commonwealth funding". The legislation has been interpreted to include building confidence in the NSW economy in the face of the global financial crisis by ensuring that the funds allocated from the Australian Government under the NBESP to the Social Housing and Education programs are spent quickly and effectively in order to stimulate the NSW economy.

It's important to remember the scale of this program. From a standing start, the NSW Government had to spend around \$5.4 billion in funding on around 2,800 housing and education capital construction projects within two years, as well as around \$390 million in small upgrades and repairs and maintenance projects.

The two overarching measures of success of the Stimulus program are that the construction industry (and therefore local economies) are stimulated to create confidence in the NSW economy and that the additional asset base being created will be a robust one, benefiting future generations.

By both of these measures the NBESP has been and continues to be a success.

The stimulation of the construction industry and local economies is consistently supported by the official industry and economic data. The National Accounts data for the March quarter published on 2 June, 2010 showed that the economic stimulus spending helped underpin growth. The data showed "gross domestic product would have stalled but for an 11.6 per cent surge in Government investment that added 0.7 of a percentage point to March-quarter activity and helped offset the drag on growth from deteriorating business investment, lackluster household spending and disappointing export earnings" (*Australian Financial Review* - 3 June 2010).

In its press release of 26 May 2010 – “**Economic Stimulus Program Boosts Building Industry**” - the Master Builders Association Australia (the peak body for the building and construction industry) said:

“Building and construction work done rose in the March quarter, boosted by government stimulus spending that is working to mitigate the downturn in other parts of the industry.”
“Public spending on education and social housing is strongly cushioning the building and construction industry from what would otherwise have been a sharp downturn.”

“In the past 12 months, building work done for the public sector has more than doubled, offsetting a big fall in private work.”

“Residential building work done barely rose in the March quarter as the lingering effects of the step-down in activity in the wake of the global financial crisis continues to play out.”

NSW has now had five straight quarters of growth.

While acknowledging the criticism of a small number of education projects, across this vast program there can be no doubt that we have created a valuable asset base for the future, including halls, classrooms and libraries. Facilities delivered years ahead of when they would normally have been able to be provided.

This submission addresses those two measures of success the asset base created and the successful stimulation of the economy by examining the approach taken by the NSW Government to achieve this and the approaches taken to systems and processes, to achieving value for money, to quality and the probity and assurance processes in place.

Systems and processes

To achieve this success, I have focused on establishing and maintaining effective systems and processes. First of all, let's consider the procurement models that we decided to use to ensure that the funding reached the construction industry as quickly and as broadly as possible.

A range of procurement models have been used across the program, including:

- project managers in Housing that let traditional building contracts;
- Managing Contractors in the Primary Schools for the 21st Century (P21) program;
- a combination Managing Contractors and design and construction packages let to builders for the Science and Language Centre program; and
- National School Pride (NSP) projects were self-managed by principals or the Department's Asset Management Units.

Many schools elected to manage their own NSP projects within the usual Department of Education and Training (DET) arrangements as this program is much less complex and did not generally involve construction of new assets.

Most school principals do not have the skill set, or the time to be professional project managers for significant capital projects, particularly with onerous delivery timeframes. Principals were invited however to project manage their P21 project/s if they could demonstrate to me that they had the understanding, the skill and the necessary time and other resources to manage this expenditure of public funds. I requested the DET to put in place a regime for schools to nominate themselves and then we went through a process with schools to step them through what direct project management would involve. I agreed to all formal requests for self management by school principals following this process.

The majority of the P21 projects are being delivered by the Managing Contractor model. The Managing Contractor model was primarily chosen for the P21 program because of the scale of the NSW Government program – some 2,370 projects at more than 1,780 schools.

The Managing Contractor model has allowed us to use the expertise of some of the country's best and brightest firms to ensure the highest certainty of outcomes and therefore achieve the national / NSW economic stimulus objectives.

The Managing Contractor model ensures:

- fastest job creation;
- least performance risk for the taxpayer;
- guaranteed performance for **safety, time, cost and quality**;
- extensive and consistent engagement with school communities and other stakeholders;
- provision of full service from Concept to Classroom;
- upskilling of small building companies, including indigenous training;
- procurement flexibility for new works and refurbishments;
- hard targets for apprenticeships, recruiting and training;
- hard targets for aboriginal employment and training; and
- best value for money - that is, the least cost to achieve ALL the objectives outlined above, including economic objectives, whilst ensuring that all works were tendered.

In this context, the scope of services provided by Managing Contractors on each individual project is extensive.

For example, scoping each school from concept to detailed design and including requirements for community use, even before any actual construction work takes place, includes:

- planning approvals, including full documentation;
- liaison with stakeholders including local council, Rural Fire Service, Heritage Office, school communities, 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 geotechnical, ground contamination management; and
- management and coordination of the design itself, which can include multiple rounds evaluating different options requested by the school and its broader community.

Following this initial development phase, there is then an additional range of tasks including:

- 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 including taking responsibility as the “Principal Contractor” under the NSW Occupational Health and Safety legislation for all sites;
- personnel security screening for child protection;
- financial performance;
- quality assurance, audit and performance;
- meeting broader government objectives including upskilling industry, apprenticeship targets and Aboriginal participation; and
- handover of the facilities including all operating manuals, “as built” drawings, etc.

It is important to understand how the construction industry works. Size and scale attracts firms with robust and tested management systems geared to delivering to strict timelines and quality. Many government agencies are now looking to package up their smaller works to get a better long term result. Construction programs worth \$300 million attract a more experienced and often capable group of providers than a job of \$250,000. This is why people often to choose to go with a larger, more well-known builder than a smaller local one.

The competitively tender Managing Contractor model allowed us to do both – have the security of a larger construction company whilst still providing jobs for smaller builders.

To ensure that value for money and transparency were central to procurement practices, a rigorous process based on the NSW Government guidelines was put in place.

The NSW Government has two primary policy documents that set guidelines for construction-related procurement. These are the NSW Government Code of Practice for Procurement and the NSW Government Tendering Guidelines. Both have stated aims to achieve better value for money and our Managing Contractors must meet these requirements as these guidelines are part of their contract.

These guidelines specify tendering procedures to ensure openness, transparency and value for money where project costs are tested in the market. This is included at every step of the contract process such as head contractors, sub contractors, etc.

Managing Contractors have quantity surveyors/cost planners who prepare pre-tender estimates and manage the tender process. This includes comparing the offers against the pre-tender estimate for each project. This comparison is used to ensure that tenders received are acceptable.

The DET's specially established Building the Education Revolution Integrated Program Office (IPO) also has their own team of quantity surveyors within each region who check the recommendations coming from the Managing Contractor on the value of the work and scope for each project. In addition, audit programs which examine value for money have quantity surveyors to assist in the audit assessment.

The IPO has audit programs that specifically examine compliance with the NSW Government Code of Practice for Procurement and the NSW Government Tendering Guidelines. These programs examine in detail the processes that each Managing Contractor undertakes.

An audit program was completed early in the P21 Program to ensure that each Managing Contractor had a suitable framework in place and an adequate understanding what was expected of them in tendering and letting contracts for the construction works. In addition to this, the DET Audit Directorate has an extensive audit program that undertakes a risk-based audit of all BER procurement activities.

Value for Money

There has been ongoing public debate centred around value for money issues that affect a very small number of projects out of more than 2,300 projects in the P21 program.

In NSW, cost **estimates for whole projects including all development, planning, design, construction and handover activities** were published early on in the program to ensure transparency and accountability.

Unfortunately, the cost **estimates** have been used in some cases to draw invalid comparisons, which on individual projects themselves are not supported by the actual scope or final costs, and are certainly not indicative of systemic problems. For example, it is not appropriate to compare the total cost of the house in your street to the house down the road. Whilst the quote for the building materials might be the same, your house may be built on rock which requires different foundations or have a sewer line running underneath that needs to be relocated or you may choose to install complex electronic systems. All these features will add to your costs and you may need to employ a specialist to help with engineering or planning whilst your neighbour may not.

In the allocation of funds in the Economic Stimulus program, all costs, including planning costs normally funded from recurrent budgets, are allocated to the project – this gives the Australian Government, who is after all allocating the money, total transparency. For example, if a school hall is being built in the normal State Government capital works program, costs such as overheads, in-house expertise etc will be charged to the Department's recurrent account thus reducing the overall capital cost significantly. Put simply, the cost to the program is all costs not just the cost of construction.

When I visit schools around the countryside, I meet scores of principals who are grateful to have this new asset at their school. There has been no other capital works program in the history of the State which reaches the magnitude of what has been achieved by the construction industry here in NSW.

And there is no other State in Australia which has achieved the rapid ramp up and delivery program that we have here in NSW as shown by the continued growth of the NSW economy. Already we have more than 400 schools projects handed over and therefore thousands of pupils using their new facilities.

What our industry – from the one man trades businesses to the large national companies – will build in just two years is broadly enough houses and more than enough new permanent public buildings for a town of 10,000 to 15,000 people with an asset life of over 50 years with all the environmental, planning, technical and technology constraints that would entail. We should be extremely proud of this achievement.

Quality

This new asset base is high quality and will serve future generations of school children and their communities well. As well there has been a major commitment to prioritising accessibility and safety standards to meet the requirements of all our children and the broader community that will have access to these facilities.

The DET has developed, over many years of experience and feedback from school communities, a set of standards for a number of different school building types. I understand these 'Schools Facility Standards' (SFS) are designed to reflect the overall needs of teachers and students as well the usual asset management requirements of maintainability, long life, minimum life cost, etc. These buildings have to be built to last through generations of principals, teachers, students and parents, all of whom have different expectations. That is why the SFS is based on broad input.

In fact as we move into a new phase of this program – a major handover phase where significant numbers of schools will be moving into their new buildings – it is important to understand all the detail and work that has gone into making these durable and lasting assets for future generations.

This includes all the special features that make facilities for school children tough and enduring that are not necessarily be visible such as: galvanised steel, heavy duty carpets, thicker gauge roofing material, impact resistant wall linings, conduits for future IT services and specialist fittings and finishes – among many others.

We now also have up to date documentation and plans that show where site services are, which did not exist for many older school buildings.

These are the maps for future improvements – things like plans for spare conduits for the installation of next generation IT upgrades and infrastructure improvements. This means playgrounds won't need to be dug up in the future because the conduit pathways have been installed in the program and are now clearly mapped.

Probity and Assurance

The implementation of the BER projects across NSW is underpinned by a range of rigorous audit and review programs from a number of different agencies and independent bodies and will continue to ensure the open and transparent delivery of the individual BER projects across the country. In addition, there have been a number of audits which have taken a holistic view of the program across both Housing and Education projects.

The results of these audits continue to be similar – there are pockets of issues which need to be resolved but no systemic problems which require a rethink of the approach or the process.

These reviews include:

DET Audits and/or Reviews Undertaken

- Audit Directorate Review of the governance framework for the BER program completed in September 2009.
- Probity Review of the Project Managers Appointment for the Request for Tender process. An evaluation report of this review was signed off by O'Connor Marsden in April 2009 with no further action required.
- Review of Managing Contractor Expression of Interest (EOI) and Request for Tender (RFT) completed in September 2009 with no further action required.
- Procurement Audits of the Managing Contractors were undertaken by DET IPO Governance Unit.
- Audits of locally managed school projects with oversight by the DET Audit Sub-Committee.
- Audit of site management to review Managing Contractor Head Offices with first round of audits completed.
- Audit of site management to review 9 Managing Contractor Regional Offices.
- Individual site audits are continually being undertaken.
- Deloitte Forensic review of all transactions in the BER looking for any out of the ordinary transactions

Taskforce Office – Commissioned Reviews

- KPMG undertook an analysis of compliance of the DET submissions to the BER (P21 Round 3) program with a submission to the Taskforce in 2009 and no follow up required.
- O'Connor Marsden undertook a review of the DET's IPO operations, providing a register of recommendations and ongoing reporting to the Taskforce office.

Commonwealth Agencies

A number of Commonwealth Agencies have undertaken reviews, performance audits or surveys across BER projects:

- Australian National Audit Office (ANAO) undertook a performance audit of Department of Education, Employment Workplace Relations (DEEWR) administration of the P21 program.
- Price Waterhouse Coopers (PWC) undertook a review of the NBESP Program Assurance with the report released in June 2010.
- DEEWR engaged Walter Turnbull to conduct a Compliance Audit of the DET IPO.
- ANAO conducted a P21 Survey of School Principals in October 2009.
- ANAO conducted an inquiry into the BER – P21 program. The inquiry has been completed and the report released on 5 May 2010.
- The Commonwealth BER Implementation Taskforce is conducting an ongoing review. The first report is due late August 2010.

NSW Audit Office

The NSW Audit Office is currently conducting three reviews into BER projects:

- A review is underway of the DET 2008-09 Financial Statements.
- A review is underway of the financial compliance at 72 schools.
- A review is underway of the BER P21 component. Completion due by 30 June 2010.

In conclusion

The Managing Contractor model gave us certainty to proceed with our projects knowing that the best of the construction industry had a major stake in delivering this massive program. They would not only deliver on time and within budget, but warrant the quality and safety performance. The timely performance is evidenced by the fact that more than 90 percent of the P21 program has already been tendered by the Managing Contractors - mostly to small and medium enterprises that have already started works on site.

This rapid rollout has been a key factor in the economic growth of the State over the last 12 months.

This is not to say that there have not been problems – you would expect there to be a variety of local issues – all of which will need to be resolved.

Complaints about individual schools are taken very seriously and are continually examined and reviewed, both internally and by a range of external entities. A very small percentage of the overall number of projects in the program are serious complaints. There is no evidence of systemic issues.

Our task and those of our external reviewers is to determine what issues are systemic and what are isolated examples. To do this, it is vital that we all sort out the facts from the opinions, real information from misinformation and the whole story from the partial story. To do anything less, is to undermine the success that we have created and therefore, the confidence of industry in our economy.

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