



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: [Inquiry into Auditor-General's Performance Audit Reports July –
December 2022](#))

Members:

**MRS E KIKKERT (Chair)
MR M PETERSSON (Deputy Chair)
MR A BRADDOCK**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 25 MAY 2023

**Secretary to the committee:
Ms S Milne (Ph: 620 50435)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 8.50 am.

STANTON, MR BRETT, Assistant Auditor-General, Performance Audit, ACT Audit Office

PORTER, DR TANJA, Senior Director, Performance Audit, ACT Audit Office

BROWN, MR JONATHAN, Director, Performance Audit, ACT Audit Office

HEMMING, DR MEGAN, Director, Performance Audit, ACT Audit Office

THE ACTING CHAIR: Good morning and welcome to the first public hearing of the Standing Committee on Public Accounts inquiry into the Auditor-General's performance and audit reports from July to December 2022. The committee will today hear from the Auditor-General's Office, and the Minister for Police and Emergency Services and government officials.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and the contribution that they make to the life of this city and this region. We would also like to acknowledge and welcome any other Aboriginal and Torres Strait Islander people who may be attending today.

The proceedings today are being recorded and transcribed by Hansard and will be published. When taking a question on notice, it would be useful if witnesses used these words: "I will take that question on notice."

We now welcome the Auditor-General's Office. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. The giving of false or misleading evidence will be treated as a serious matter. Please confirm that you understand the implications of the statement, and that you agree to comply with it.

Mr Brown: I have read and acknowledge the statement.

Dr Porter: I have read and acknowledge the statement.

Mr Stanton: I have read and acknowledge the statement.

Dr Hemming: I have read and acknowledge the statement.

THE ACTING CHAIR: Wonderful. Would you like to make an opening statement?

Mr Stanton: No, thank you. We are here to answer any questions, and we are at your service, as it were.

THE ACTING CHAIR: Okay. Well, why don't we work through each of the reports. In regard to the Acton waterfront project, when the City Renewal Authority assumed the contract, what opportunities did they have to do due diligence?

Mr Stanton: I will briefly highlight what you have identified there. The City Renewal Authority took over the activities of the Land Development Agency in July 2017. The Land Development Agency had gone out to market in late 2014 in relation to the

Acton waterfront project. The procurement process at that time took some time before the actual contract was signed and agreed, in November 2015. Once that contract was signed and agreed, the contractor was underway in relation to the works. That took some time and some variations occurred in that period of time. There were some delays to the project and there were some variations to the project.

Once the City Renewal Authority came on board and assumed that responsibility, in mid-2017, it probably had a few key options available. I might defer to Jonathan Brown, the engagement leader, to help us through this question.

Mr Brown: A paper was prepared on 20 July 2017 that outlined three options that the CRA officials were considering at the time. One was a renewal of the contract, with a new contractor, looking at design and construct. A second option was to look solely at construct. A third option was to continue with the same contractor by variation. A fourth option, not referred to in that paper, was to recontract with the existing contractor on new terms. So there were options on the table. The CRA did give some attention to those options. What the audit found was that the attention was limited. Given the enormity of what the CRA was to undertake, the attention to the issue was quite fleeting.

In May 2017 the former LDA advised the Government Procurement Board that it was going to re-tender. It was going to go out to the market, afresh, on 30 May 2017. But by July the newly established CRA had determined to remain with the contractor. So between 30 May and 20 July there was an about-turn. During that period, during the budget process, the government had committed large resources. In the business case, \$70 million had been discussed for this project. So we were no longer talking about a very small project, a \$10 million project, which was the original contract. Given the size of the resources at play, and given that the former position was that the government would go out to the market to continue the work, it seemed to be insufficient due diligence to solely rely on a paper on 20 July 2017 to do a complete about-turn.

THE ACTING CHAIR: Were there any reasons given for the decision to stay with the contractor?

Mr Brown: There were lots of reasons given to stay with the contractor. The CRA provided a fulsome account of the reasons for staying with the contractor. In fact, the CRA engaged an independent opinion from a consultant, in February 2022, as to the reasons why it saw staying with the contractor as a good idea. What we maintain is that that work really needed to be done in July 2017, when it was relevant to the decisions to be made, not as a post hoc justification for remaining with the contractor.

MR BRADDOCK: No more on that topic. This is a new question, on recommendation No 4, about the assumption of legacy contracts and particularly the government response. There are a couple of points I would like to ask about there. Firstly, they are talking about an ACT government contract management guide being currently under development. I just wanted to check: has the Audit Office been consulted as part of the development of that guide?

Mr Brown: We have been consulted in so far as we are aware of its development, but

we have not been engaged as a participant in developing that. Nor, I think, would the A-G expect that to happen.

MR BRADDOCK: Okay. Would such a guide, which is aiming for the standardisation and management of contracts across the entirety of the ACT, address the risk that recommendation 4 is trying to address, which is about the transfer of contracts from one entity to another and ensuring that the receiving entity has probity as to what those contracts actually are, and that all is in order?

Mr Brown: From reading the government response to the recommendation, my understanding is that the report does not cover this matter. This is post report. My understanding is that the issue of legacy contracts and their assumption by a new entity is something that the guide will prompt any newly established entity to look into. The guide is a government policy. As strong as it is, it is capable of influencing the conduct of agencies. An agency newly established would be required to look at the contract that it is assuming and to risk assess it to determine what it is taking on. In the case of the LDA and CRA contract, there were risks that this report identifies that were not identified by the CRA at the outset, when the CRA was established. Nor are they acknowledged in the CRA's response to the report.

MR BRADDOCK: I suppose my concern is for future machinery of government changes or new entities. Is it fair to say that the Audit Office's perspective is that those new entities should conduct that risk management and appropriate checks to assure themselves as to what they are inheriting, basically?

Mr Brown: Absolutely.

Mr Stanton: Yes. That is a matter of better practice. That should be done, and we would expect that to be done. To the extent that Procurement ACT might be providing that advice through this new contract management guide, and providing that guidance as policy, it should be recognised by the agencies. It could be expected that that could be a good thing.

MR BRADDOCK: Thank you.

Mr Brown: If I can just add one further point to that—

MR BRADDOCK: Sure.

Mr Brown: In the report we refer to the CRA not having an appetite to do such a review in 2017. With the benefit of hindsight, perhaps that would be different now. I would add that, in reviewing the legacy contracts, the CRA had a few legacy contracts. It should not be underestimated how many contracts, for example, the SLA took on. It was dozens and dozens of contracts. So it is no small feat to do some form of due diligence on legacy contracts, but some form of proportionality needs to be applied to that.

MR BRADDOCK: As you mentioned, some form of risk management assessment.

Mr Brown: Yes.

MR BRADDOCK: Thank you.

THE ACTING CHAIR: In the report you state:

... publicly available information on the procurement and contracting activities of the Acton Waterfront Project is limited.

Is that limited to this project, to the LDA, to the CRA, or to the ACT government in general?

Mr Stanton: The comment is primarily in relation to this project. This audit report is about that particular project. That is the authority on which we are making that statement. I think that relates to material that is chapter 4 of the report, which traces the evolution of the contract, from being signed in November 2015 through to the multiple variations. It was signed in November 2015 for a cost of about \$9 million, with multiple variations. I believe that there were 11 variations.

Mr Brown: Sixteen in total.

Mr Stanton: There were 16 variations, through to a figure of the order of \$47 million. It took us some time and some effort to understand, based on publicly available information, what the evolution of that contract was and the figures and the times and the variations that occurred. We were looking at that primarily through the ACT government contracts register in the first instance. That is the basis, primarily, for the comment that we have made about the transparency of those variations in that contracting and the evolution of that contract.

THE ACTING CHAIR: Was the information available but just hard to follow?

Mr Brown: An interested member of the public—and there were some in 2020—would look on the contracts register. The contracts register would give you some information about the project. What you would discover from the contracts register was that a contract was let in 2015 for \$9 million. Then, as you work through the variations—and there are a lot of variations and you need to work through them methodically to work out what is going on—ultimately you get to a figure of \$46 million by 2020.

In trying to understand where this all comes from, what is this based upon, you can only see in the contract documentation a glimpse that there was some form of competition nine months earlier to establish the basis for letting the contract. The numbers do not stack up. You have a figure of \$27 million being referred to in the contract documentation that is a glimmer that something happened nine months earlier. You can begin to piece it together, but it is a hard gig.

Part of the purpose of the audit was to establish a reasonable comprehensive chronology of what happened, when and where. Ultimately, the audit is about continuity between what the government approached the market with, what the contract says that it then signs, and then how the contract manifests, how it eventuates. The contracts register itself gives you some of that, but it does not give you enough.

When there are anomalies in the contracts register you have got two problems: it is incomplete and it has got some equivocation in there.

THE ACTING CHAIR: How do we avoid that particular problem in the future? There is a project that is complex and variations potentially could be required; how do we make that information accessible to the wider community?

Mr Stanton: There is some work underway in relation to the contracts register and the transparency and accountability of the information in that register. We understand that Procurement ACT has been doing some work in that space. We are keeping an eye on what might transpire out of that process. That may be a good start. It may help to address the scenario we have here.

Otherwise, it is very much incumbent on the agency responsible for the contract to be very clear and very diligent in what their contracting arrangements are and to put that information into whatever publicly available source there is, in relation to the contract. It might be through Procurement ACT or through the government contracts register in the future. It will need to be very clear and very diligent in putting accurate and timely information into that publicly available source. That is the responsibility of all agencies and all authorities with responsibility for contracting.

Mr Brown: CRA did commit—and the report refers to this—to meeting that information deficit. They have put more information onto the CRA website. That is the first point. The second is that it is very easy to populate the contracts register incrementally. But it is important that somebody with responsibility for the project actively ensures that the contracts register tells the story—that you do not have episodic references put into the contracts register as they are needed. There is a bit more than that. The full story should be available in the contracts register, as in what needs to go in under the contracts register rules. There were gaps in there. We had one variation for \$618,000 that was simply invisible.

THE ACTING CHAIR: What do you mean by “invisible”?

Mr Brown: There was no reference to it in the contracts register. It was not notified.

THE ACTING CHAIR: Right. Not good. Let’s move on to *ACT Childhood Healthy Eating and Active Living Programs*. In your view, what is the biggest barrier to children and their families accessing support for healthy eating programs under the current system?

Mr Stanton: Thank you for the question. I might defer to Megan Hemming, the engagement leader for that particular audit, who will be far more qualified to answer that question for you.

Dr Hemming: Two key barriers were highlighted by the audit report. The first one is a widespread barrier that would affect a large percentage of the community, and that is simply financial access to sufficient healthy food and financial access to opportunities for active living. The second barrier is access to suitable multidisciplinary health care for those children where harms have already occurred. That lack of access is due to under-resourcing of the ACT’s single healthcare service

in that space.

THE ACTING CHAIR: Regarding the single service that we currently have in existence, how far and wide do those services reach?

Dr Hemming: We have a single service, which is the School Kids Intervention Program. It is a very well designed service. It is designed in accordance with contemporary evidence for better practice. However, it is resourced at the size of a pilot service, rather than a fully equipped service, and is able to meet a small portion of the demand for the service. That is evidenced by the number of children that are on the waiting list but also by the population health statistics that we have about children in the ACT, which would suggest that the number of children requiring such a service is much larger than the number treated each year under SKIP.

THE ACTING CHAIR: Do you have numbers for the committee?

Dr Hemming: SKIP is able to treat around 25 to 40 children annually. It is impossible to state exactly what the demand is. However, we know that waiting times for the service have been in excess of 12 months, which suggests large numbers on the waiting list.

We also know, through the population health survey, that the number of children in the ACT who may have eating behaviours or activity behaviours, or other healthcare concerns that could be met by such a service, is likely to be in the thousands. We cannot put a specific figure on that, but certainly you are looking at something that is many times the order of magnitude, compared to the 25 to 40 children that can be seen by SKIP.

Mr Stanton: I draw your attention to chapter 4, and particularly paragraphs 4.47 through to 4.52, which go through some of the figures, some of the best estimates that we have made of what the current capacity is of the program and what the potential unmet need is of the program. Echoing what Megan said there, the number of kids that might be potentially covered by the program in that cohort is in the thousands. That is all outlined in those paragraphs.

THE ACTING CHAIR: Wonderful. Thank you.

MR BRADDOCK: I want to go back to that first barrier you identified: financial access to healthy food and health and wellbeing. Has there been an assessment of the investment to address that element? How much more or less effective is that investment than, basically, the ambulance at the bottom of the cliff catching those who have developed an eating issue?

Dr Hemming: This is one of these matters where it is hard to put concrete numbers on it. However, all of the evidence would suggest that if families are simply unable to access enough food, they are therefore unable to access healthy eating. The report reflected the views of community stakeholders that were collected as part of the audit, and they were unanimous in supporting the view that programs that support families to develop skills and knowledge around healthy eating can only be effective if families actually can access sufficient healthy food.

Mr Stanton: We appreciate that this is a big and complex issue. We certainly thought it warranted attention in the audit report. We cover it off towards the end of chapter 3. In relation to recommendation 6, our key recommendation there is that the ACT government consider this issue in the context of the Preventative Health Plan and identify it as something that should be in that Preventative Health Plan and something that aligns with other initiatives and activities in that plan.

MR BRADDOCK: Yes. The government, in its response, says it is out of scope with the Preventive Health Plan, so I am keen to hear your arguments as to why it should be part of that plan.

Dr Hemming: In the audit report we stated that activity that contributes to the preventive health activities specified in the Preventive Health Plan should be within scope of that plan, including access to sufficient food and opportunities for active living. In order to have a fully effective preventive health strategy, that strategy needs to provide for all members of the community and, in this regard, all children in the community. The audit report's argument was that a plan that addresses the needs of part of the community but not the whole community cannot be considered a fully effective government strategy.

MR BRADDOCK: To expand it a bit further, what are the impacts if they are not being considered as part of the Preventive Health Plan, from your perspective?

Dr Hemming: I want to be clear that the audit report did not make any comments on the size or the nature of the activities that should occur in that space. What the audit report did recommend is that all activities in that space should be linked to and considered under the Preventive Health Plan. What we are talking about here is preventing the siloing of activities and bringing them together under an umbrella of preventive health, in alignment with the intent of that strategy.

Mr Stanton: If it is not under that strategy and recognised as part of that plan, it is a missed opportunity to really make some ground in this particular space. The other thing we would say is: it is not to say that there is not work being done across government in this particular space. Of course there is, in different parts and different ways, but I would echo what Megan said there in relation to the siloing. If it was recognised and incorporated within that strategy, within that plan, there would be a real opportunity to make some ground in that space.

Dr Hemming: What happens at the strategic level is intended to influence what happens at the program and service level. There is an opportunity to set a clear direction for all programs, services and activities that are funded under the strategy or that otherwise come within the auspices of that strategy. Setting that expectation very clearly at the strategic level is one mechanism that government can use to ensure that program design considers the needs of everyone in the community.

MR BRADDOCK: Speaking of which, you mentioned that 25 to 40 can take part in SKIP. Is there any prioritisation for disadvantaged groups amongst the attendants of that program?

Dr Hemming: The majority of clients of that program would be experiencing some form of disadvantage. The practitioners in that program are constantly innovating to try to reach as many of the potential clients as possible. Certainly, in the service model that the program runs under, there are no aspects that would prevent the most disadvantaged clients from being seen. It is simply that the resourcing is limited. At a certain point, a new client just cannot be taken on because there is an inflexible level of resourcing for the program. The other point that the audit report made is that it is the only service of its type in the territory, so there is no opportunity for referral to other programs or services.

MR BRADDOCK: Is that service being integrated with other government services? Say, for example, a child is in care or identified as being at risk, could that program be delivered as part of a wraparound service?

Dr Hemming: No. That does not exist currently. The service is multidisciplinary in that it does draw on all of the relevant disciplines, but it is not linked into any broader early intervention or child and family network, simply because there is no scope to do that with such a small service.

THE ACTING CHAIR: How are school crossing supervisors currently allocated?

Dr Hemming: TCCS primarily used data about pedestrian and vehicle traffic around schools to determine where crossing supervisors would be located. They had a number of criteria which were used to select the initial locations. It appeared to us—and this is reflected in the audit report, although there is no documentary evidence of it—that criteria around road safety were weighted more heavily than other criteria, such as levels of disadvantage in a school or other community concerns. It is very much a road safety project in terms of how that allocation is made.

THE ACTING CHAIR: What should that allocation be?

Dr Hemming: I think there is an opportunity there. The report does not make a recommendation but there is a comment on it in the content of the chapter. That program has been running for some years. TCCS have indicated that they will be revisiting the allocation model if the program is funded to go forward. To align with the Preventive Health Plan, the allocation model should consider the range of factors that might influence children's access to active travel to school.

Mr Stanton: The second part to the recommendation is looking for information on the allocation process and selection criteria. We are looking for a little bit more transparency there. As Megan said, it can be a complex issue in terms of school safety and the desire to increase active travel and walking to school. We would like a little more transparency about that model and where those supervisors have been distributed—and even reconsideration, if necessary, of whether there are newer opportunities and better options elsewhere. Now is more or less the time to do that.

Dr Hemming: What the report is seeking in that recommendation, in terms of transparency, is the opportunity for other agencies, including those responsible for implementation of the Preventive Health Plan, and the community to assess whether that particular program is functioning in alignment with the government's policy and

strategy. We did not go as far as to make any recommendations about what that allocation model should be. We simply said that it should be made transparent so that those determinations can be made by the relevant body.

THE ACTING CHAIR: Thank you.

MR BRADDOCK: You mentioned SKIP was operating on pilot resourcing from 2015. I think I read that in the report. What is the impact when such a program continues on pilot resourcing? What would permanent resourcing look like? What would be the difference, in your eyes?

Dr Hemming: We have not attempted in this report to make any commentary on what the quantum of resourcing should be. That is really a matter for Canberra Health Services. It is a specialist healthcare services design matter.

What I can comment on is what the impact of under-resourcing is. Very clearly, it is increased cost to the healthcare system long term. There is clear evidence that when children have persistent, long-term untreated need, be it an aspect of their eating, their activity or their atypical weight gain, there is high risk of developing very complex, very difficult to treat health conditions later in life that require very, very intensive and very expensive medical treatment for young people and adults.

THE CHAIR: The program is for four-year-olds to 12-year-olds only. What were your thoughts, while you were doing this investigation, about the impact it would have on babies or toddlers up to four years old? What positive impact would it have on those younger children if the program was extended to them?

Dr Hemming: That would definitely be a positive impact. Again, the report did not make any comment on what the future resourcing quantum or design of the program should look like. That is a matter for specialist healthcare design. But it is fair to say that extending the program to younger children would be expected, based on all available evidence, to have a positive impact. That is based on, as the report acknowledges, the key importance of early intervention to prevent the development of more complex life-long problems.

THE CHAIR: Was there any specific feedback or evidence that you received from experts, paediatricians, on the importance of having the program for children aged younger than four?

Dr Hemming: No, but this report did not go into that level of detail. The report went as far as suggesting that the model needs to be reviewed. That is all that we can really say on that at this point, other than it is very clear that the government's Preventive Health Plan does have the focus on early intervention and reflects the value of early intervention in preventing more complex, more costly conditions later in life.

THE CHAIR: Thank you. That is all the questions I have for that report. We will turn to report No 9, *ACT Emergency Services Agency Cleaning Services Arrangements*. Would you like to give a briefing on that report?

Mr Stanton: Only to say that it is the first information report that we have done as an

office. This particular issue came out of some earlier work that we had done in relation to our value for money procurement performance audit report that was tabled some time ago. Through that particular audit we became aware of what appeared to be these arrangements. We thought it was worth further consideration, and we did some work to obtain information from the agency. We did obtain that information and we have presented that information in this information report.

We did not do a performance audit because, as we understood it, the circumstances and the scenario which led to this particular arrangement, which was essentially services being provided without a valid contract, had been addressed by JACS by going out for its facilities management contract for the ESA. For all of those reasons, we decided it was worthwhile to make this information publicly available, put it into a report and present that information report to the Speaker for tabling in the Assembly. We certainly did not do a performance audit report, which would have cost a bit more and taken a bit more time.

THE CHAIR: Thank you. It is quite a bizarre situation that happened several years ago. With your background in researching and investigating procurement and contracts within the government's agencies, how common is this incident that happened in the past: where there is really no contract between the government agency and these cleaners, or service providers, as they are called?

Mr Stanton: The answer to that is: we do not really know. That is part of what we think, and we hope, might be the value of this report. If there are other arrangements that are out there across agencies, being long-term arrangements or comfortable arrangements that are in place without a valid contract, then maybe the agencies can recognise and address that through having this report make visible something that had been going on for quite some time.

THE CHAIR: Right. Learn your lesson from this report and make sure it does not happen.

Mr Stanton: Hopefully.

THE CHAIR: Okay. Thank you.

MR PETERSSON: How did this service provider come to provide these services at the very beginning?

Mr Stanton: It all happened some time ago. We are relying on memories and people's recollections and the like. It would appear that the service provider first started providing some smaller scale cleaning services at the Curtin ESA facility in the early 2000s. There might have been a procurement process for that, but recollections are a bit unclear. The service provider started off there, in that facility, then the ESA expanded the services that were being provided by the service provider across multiple facilities: ambulance stations, fire stations and RFS sites and the like.

MR PETERSSON: Right. So there is no documentation of those early procurements; it is just going off people's memory?

Mr Stanton: Yes, but to a certain extent you would not expect there to be documentation maintained in relation to those services or those particular events in 2005. That is well beyond the statutory record-keeping requirements. All that we were doing, in trying to get to the bottom of that, was talking to the representatives from the service provider. I do not even think there was anyone in the ESA who might have had any insights into something that happened 18 years ago.

MR PETTERSSON: Thank you.

MR BRADDOCK: How confident can we be that there are no other instances like this somewhere in the ACT government?

Mr Stanton: I am not sure if we know the answer to that question. That is an interesting question. There is a line in the report which is: the information in this information report might be used by the Audit Office to guide further activity. We have got an eye out to see what we might be able to do in relation to trying to ascertain if it is more prevalent.

MR BRADDOCK: What steps would you take to do that?

Mr Stanton: One of the things that we could do is not actively being pursued at this point in time. We have a draft performance audit program that has been put out there for comment. We have got comments and we are going to finalise that fairly soon. But one of the things that we might be able to do is in relation to so-called data analytics and the like, where we can try to identify payments and processes that might be in place in particular agencies and see if we might be able to match that back to existing contracts or procurements. I stress that this is not being actively pursued at this point in time, but it is one thing that we have got an eye on in the future, if we can ramp up and progress our data analytics capability.

MR BRADDOCK: Thank you.

THE CHAIR: Thank you so much for coming in.

Mr Stanton: Thank you.

THE CHAIR: We really appreciate it. Before we finish, is there anything you would like to add?

Mr Stanton: No, thank you, Chair. Thank you for the opportunity.

THE CHAIR: On behalf of the committee, I thank you all for attending today. When available, a proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription. If you undertook to provide further information or took questions on notice during the hearing, answers to these questions would be appreciated within one week from the date of this hearing, if practicable. Thank you so much.

Hearing suspended from 9.32 to 9.55 am.

GENTLEMAN, MR MICK, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services

GLENN, MR RICHARD, Director-General, Justice and Community Safety Directorate

JONES, MR JASON, Assistant Commissioner, Operations, ACT Emergency Services Agency, Justice and Community Safety Directorate

THE CHAIR: We now welcome the Minister for Police and Emergency Services and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Please confirm that you understand the implications of the statement and that you agree to comply with it.

Mr Gentleman: Yes, we do. Thank you, Chair.

THE CHAIR: Thank you. Minister, would you like to make an opening statement?

Mr Gentleman: Yes. In January 2022, the ESA implemented a new integrated facilities management services contract with a single service provider, which includes the provision of cleaning services to 36 ESA facilities across Canberra. These cleaning services ensure a safe environment for employees, volunteers and members of the community, so that the agency can support Canberrans with critical emergency services.

JACS and ESA, of course, take their obligations under the Government Procurement Act seriously, maintaining the investment in improving procurement and contract management compliance processes and education across the agency at the same time.

JACS and ESA continue to work with Procurement ACT to improve capability and compliance with the government procurement framework and are active participants in the current procurement reform program. JACS and ESA are also confident that historical procurement issues have been addressed and that the new, rigorous, centralised contract now in place is compliant with the Government Procurement Act.

Also, JACS and ESA acknowledge that the Auditor-General has completed an information report after reviewing the ESA cleaning service arrangements from early 2000 to 2022. They accept the findings in the report that, up to 2020, ESA cleaning service arrangements were not sufficiently procured or managed to meet compliance with the Government Procurement Act. They remain committed to learning from past events and ensuring continued improvements in procurement and contract management processes and compliance.

I have every confidence that they have learnt from errors in the past and are now going about it in the right way.

THE CHAIR: Thank you. Could you please give us an update on the procurement and contract management framework?

Mr Gentleman: Yes. There has been about 20 years of administration of cleaning facilities arrangements for ESA. They have moved in the past between ESA and JACS multiple times because of machinery of government changes. We have had different groups in charge of ESA.

The services provided during that time include general cleaning services, grounds maintenance, industrial cleaning services and, of course, COVID-19 cleaning services, as well as ad-hoc cleaning and facilities management services. I will go to my directorate officials to give you some detail on how we are operating currently.

Mr Glenn: I acknowledge the privilege statement. JACS released our procurement and contract management framework in April 2021, which provides a suite of documents and guidance for staff around how to do procurement and how to manage contracts. There is a training element to that to be able to upskill staff who are engaged in procurement activity. Some things that have gone alongside that have been around how we have adjusted the staffing profile to be able to put greater effort into procurement and contract management.

Within ESA, there is an executive role that has responsibility for procurement. That started in 2020. In fact, that was the role that really led the bulk of the procurement process for the new total facilities management contract.

Within JACS corporate, within the centre of the directorate, we have established a director-level role which is focused on procurement and contract management. It is providing advice to business units around the directorate as to how to best manage procurement issues and it is also providing an additional level of assurance to me when procurement matters are presented to me for approval. There is another set of eyes, outside the business unit, looking at the proposal that is being put to me.

THE CHAIR: Mr Glenn, who is the other set of eyes that looks at that?

Mr Glenn: The Director of Procurement and Contract Management within JACS corporate. I might receive material from ESA, corrections or somewhere else; that is also examined by my central procurement area to provide me with advice as to whether they agree or disagree with the proposal that is being put. It is just an extra level of assurance for me in decision-making.

THE CHAIR: That is good. Was that role established after this report was tabled? Was that one of the improvements that you made from that report or was that role previously there?

Mr Glenn: That role was previously there. I am sorry; I do not have the exact timing. It was not a response to this report. It was actually a response to our acknowledged need to perform better around procurement and contract management. It was an investment that we had made.

THE CHAIR: Why didn't he perform his role properly in terms of procurement and contracts if that was his particular role as a director? You mentioned he is Director of Procurement and Contract Management.

Mr Glenn: Yes. That person performs their role very creditably. The role went in in 2021, or thereabouts, so they were not involved in the issues that we had with this previous contract.

THE CHAIR: Why wasn't he involved when he is the Director of Procurement and Contract Management? I am just trying to understand.

Mr Glenn: The issues we have had with the cleaning contract, if we put it that way, originated from much earlier in time, around 2000 to 2008. Subsequently I have made some investments in our own capability. That role was not involved with the clear deficiencies that we have had with the cleaning contract up to the point that we have fixed it.

THE CHAIR: No, that is the thing. During that time there was really no procurement of the cleaning services or no contract with the cleaning services. That is what the report was about. I am wondering, why he was absent during that time of no contract, no procurement.

Mr Glenn: I created that role after that period.

THE CHAIR: You just mentioned that that role was before all of this happened.

Mr Glenn: Before the report?

THE CHAIR: Yes.

Mr Glenn: Before the Auditor-General's report, not before the period when we have had problems with the contract and procurement.

THE CHAIR: I see. That role was created before the report was tabled but after the issue was raised with you?

Mr Glenn: Yes.

THE CHAIR: All right; carry on, Mr Glenn.

Mr Glenn: We have that role, which is very valuable. The other piece of work that I have going on at the moment is that we have a consultant who is assisting us with whole-of-directorate procurement and contract management arrangements. By that I mean where we should best locate our contract management and procurement resources to best serve the directorate.

As you can imagine, it is an incredibly diverse organisation. Some parts do lots of procurement; some do very little. We need to work out how we manage our resources across that to make sure that we are addressing our procurement obligations effectively.

The other thing to mention is, of course, the government's procurement reforms through Procurement ACT, which will introduce requirements to have people accredited to particular standards to be able to perform different values of

procurement. One of the challenges for all directorates, and certainly that we are facing, is how to best attract and retain the skills that we will need in order to have people who are adequately accredited to be able to perform those procurement skills.

It is about whether I have the people in the centre, and they go out to business units to assist them, or whether larger business units who do a lot of procurement ought to be able to retain that capability in house; that is the question that I have posed. We have some people doing some work to assist us with that at the moment.

THE CHAIR: The procurement and contract management framework has been available since 2021.

Mr Glenn: Yes.

THE CHAIR: You also spoke a little bit about the training elements of that framework. How often are staff being trained in that framework?

Mr Glenn: There is some general training that is available to all staff which people can opt into. We try to provide some basic procurement awareness training on induction for staff. But there is more to it than that. That is trying to raise awareness for people. We are also anticipating that there will be some more detailed training guidance available to us as part of the procurement reform, which we will seek to access.

THE CHAIR: You mentioned that staff can opt into that. It is not compulsory; it is a choice?

Mr Glenn: I will check this. To the extent that it is a component of the induction training then it is compulsory. We ask everyone to do that.

THE CHAIR: Yes, I got that part.

Mr Glenn: For others, it is about people who are engaged in procurement accessing training if they feel that they do not have the relevant skills. That is part of the role, for example, of the director of procurement, to be able to assist staff who might be coming to procurement for the first time—and that does happen—to receive advice on where and how to get some training to be able to do procurement adequately.

THE CHAIR: Are staff that are coming into contact with a particular procurement issue given the option to do training on procurement and contract management, or is it mandatory for those staff who are entering into a procurement issue to undergo training?

Mr Glenn: It depends a little bit on the nature of the procurement. Certainly, for a complex procurement, my expectation is that everyone involved in that will have been trained to participate in that complex procurement. There are some very simple procurements where the training is effectively the guidance that is provided to the staff member, to get three quotes and go through a process like that. There is written material. That person may not necessarily have been through a formal, face-to-face training process, but they will have been provided with guidance and support to be

able to conduct that simple procurement.

THE CHAIR: With those procurements, the simple ones for which you do not need extra training, and where guidance and advice are sufficient, is there a threshold for the procurement? Could it be \$200,000 or \$100,000, and they can just do the procurement with guidance rather than training?

Mr Glenn: Certainly, at the lower end, below the \$25,000 threshold. Procurement thresholds already exist for what type of activity needs to be procured. At that sub-\$25,000 level, there is guidance available. I would not necessarily insist that somebody goes through a formal training process before that, if they have guidance and support. I cannot capture everyone all the time. At the next layer, I would expect there to be more training; and at the above \$200,000 level, which is an open procurement obligation, I would expect people to have accessed training before they participate.

THE CHAIR: That is good to know.

MR PETTERSSON: There are a couple of work orders included in the Auditor-General's report: the cleaning of two microwaves for \$255, replacing a soap dispenser for \$218, and installation of a paper towel holder for \$338. Do these represent good value for money?

Mr Glenn: That is difficult to answer. I can say that that work order mechanism was around being able to maintain safe facilities for staff. I do not know the particular circumstances of those.

Mr Jones: For the purposes of today's hearing, I am the Acting Commissioner of ACT Emergency Services. I acknowledge the privilege statement.

Following on from the D-G's comments, when we look at value for money, some of the facilities we maintain are 24/7 emergency response stations. Sometimes they need to be repaired after hours and at times which would not represent value for money. I cannot comment on the issues that are there, but sometimes we do have contractors come out after hours, so that we can maintain a 24/7 coverage of ACT. That comes at a cost. I would have to look into those, to see whether that was one of those.

Certainly, we have things fixed after hours. We have a priority system—to be fixed within so many hours, otherwise a fire station or ambulance station closes down. With less critical things, we wait until business hours to try to maintain the best value for money. But there are occasions when a repair has to be done to maintain station coverage.

MR BRADDOCK: Has any review into JACS legacy contracts and procurements been conducted—currently, not ones which are long since done and dusted—just to make sure there are no similar risks out there?

Mr Glenn: Partly, the Auditor-General's original audit report into single select procurements, which is what prompted this exercise, did examine a number of JACS contracts. I have asked for us to look at contractual arrangements to make sure that we

have got adequate contracts and arrangements in place. That is not necessarily a formal review, but, across the business units, we have asked people to go back to examine them, to make sure that we do not have situations like this out there. An element of the work that I have got going on now, around how we arrange our contract management and procurement resources, is actually to test the robustness of our contract registers, which, I have to concede, are patchy across the organisation. I am seeking to lift that so that we have better visibility of all the contracts.

MR BRADDOCK: How confident are you that there are no other examples of this lurking out there?

Mr Glenn: Across the examination we have done, we have not been able to identify anything of this nature. I think we have some contracts that are in the process of being refreshed. There have been instances where I have authorised the extension of contracts so that we can conduct a proper procurement process.

Across the ESA, we did a whole lot of work post the 2019-20 bushfire season around setting up arrangements to be able to procure the types of things that are required in an emergency service. We needed to make sure we had a proper framework to be able to acquire food, to be able to provide supplies to people who are engaged in emergency activity. That was a clear learning as we came out of that process: that we actually need these things ready to go so that we are not tying ourselves in knots around procurement exercises when we are trying to—

Mr Gentleman: Put a bushfire out, for example.

Mr Glenn: Yes, indeed. I have got to feed the fires. I am not going to spend a day getting tied up around things. We have to feed them at the time we need to feed them. We need to be ready, which is why those frameworks have been put in place in ESA.

MR BRADDOCK: In those situations where you have authorised extensions whilst undergoing proper procurement processes, how are you ensuring that taxpayers' funds are being best utilised in those circumstances?

Mr Glenn: One of the pieces of information that comes to me is the adequacy of the service that we are already receiving. One of the considerations that I have to take into account in authorising a single select, which is effectively what can happen in some of these contract extension situations, is that there is a value for money assessment done in relation to the service. Clearly, that is not the same as a complete market test, but it gives us a formal contract and a continuing arrangement in place so that we know that we are getting what we need to get whilst we do the full procurement.

MR BRADDOCK: Is it possible—and you can take this on notice—to get further detail of which ones have been extended whilst undertaking the formal procurement processes?

Mr Glenn: Yes; certainly.

MR BRADDOCK: Thank you.

MR PETTERSSON: How did this service provider come to work for ESA? Do we know the origin story?

Mr Glenn: The original one?

MR PETTERSSON: Yes.

Mr Glenn: I do not know the origin of that story.

THE CHAIR: Before self-government!

Mr Gentleman: It was a while ago.

Mr Jones: The audit report went through the legacy of it in detail. I think we have to go back to the original days of ESA, when it was a statutory authority. It transitioned into the government system, it brought in more than just the ambulance service and the fire service, and there were a number of position changes. I think, historically, the facilities cleaner has always worked in Fire & Rescue and the ACT Ambulance Service. Then we brought in our volunteers. There were a number of legislation changes to work, health and safety which involved maintaining all our facilities to a standard. The need was there.

As to the capturing of who was actually keeping it going from the service point of view, I think there were many reasons why the oversight got lost. Certainly, there was a need for cleaning and maintenance at our stations, as I said before, to keep frontline services operational. We acknowledge that we lost sight of that oversight. But the need for cleaning and maintenance there is justified. We just did not see it come through.

As to the history of the original contract, I think none of us were around at that time. I think the auditor picked up on the records before that date. I will make the comment that that was the transition between the different headquarters, as well as being back in the paper-based days. We had multiple position changes at the time. I think that that is where it got lost in the system. We just assumed that that was business as usual.

MR PETTERSSON: Then different parts of government started to insource their cleaning. Was there any conversation within ESA and JACS about in-house cleaning?

Mr Gentleman: Certainly. I can put my other ministerial hat on there, looking at the provision of insourcing across the territory. We are working across all of our directorates to see where we can insource, particularly cleaning contracts. We have had some very good success, I think, with the education contract, bringing those cleaners into the government service. We will continue that work across the other agencies as well.

MR PETTERSSON: Thank you.

THE CHAIR: Could you provide an update on the service provider? Are they still the cleaning service that are currently cleaning the emergency services? They have a contract now. When does the contract expire?

Mr Jones: Yes. That was a five-year contract, plus the option of three further years on top of that. We have just gone through the start of the third year now.

THE CHAIR: The third year now?

Mr Jones: Yes. It has got it for five years, with a possibility of three further one-year extensions.

THE CHAIR: Why the possible three-year extension?

Mr Jones: For the reasons you mentioned before: five years is a long way away. We do not know the climate that we are going to be in with our stations, the number of stations or whether that is the best way of doing it. We do not want to get to a point where we sign them up for too long and we do not truly look at where we sit, as an agency, in that period. It gives us an option to extend, but we do not have to, pending other parts of the environment at the time.

Mr Gentleman: We have already projected a growth of stations across the territory. There will be a new one at Acton and at Molonglo, and there will be other operational stations for ESA in the future, as the city grows.

THE CHAIR: Yes. It is okay if you want to mention new stations. Once the contract expires, will you be looking at sending out expressions of interest to other possible service providers that could provide cleaning for the agency?

Mr Jones: Yes. Come that five years, if the agency and directorate choose to re-explore value for money or the market test or to look at other options, as you mentioned before, that is an opportunity pre the expiry of the contract. We would look at where we sit as a government and look at what is next. If the climate says, “No; we keep continuing,” we have that option under the original contract and procurement. However, five years is a good health check to see whether that is the way forward.

THE CHAIR: So, before the contract expires, you do have the option of sending out an expression of interest for other service providers to put forward that they are willing to take up the service—or you could continue with the service provider; correct?

Mr Jones: When you say expressions of interest, we would have to set down a procurement pathway if we were not going to extend the contract.

THE CHAIR: That is correct.

Mr Jones: Obviously, we would have to do that prior to the contract expiring so that we would have continuity of the cleaning or maintenance of the stations. If, before the five years, we were to decide that we were going to market test or do something different, that would have to happen prior to five years. We do have a transition clause in the contract that says that, whatever we choose to go to, there is a transition arrangement. For us, when we get close to that period, about 12 months out, we would start to work out: are we going to market test or are we going to continue the contract?

There are a lot of variables. We would make a decision at that point. Through the COVID experience I think we learned that we do not want to project too far out.

THE CHAIR: Is that what happened in the past: that you were quite comfortable with the service provider and you did not need to send out an expression of interest? One of the issues in the Auditor-General's report is that, because there were no expressions of interest, there was missed opportunity for other service providers in the market to come forward.

Mr Glenn: That was clearly the failing that the Auditor-General identified. Because we now have a firm contract which has clear gateway points as to when we need to make decisions about further procurement, we are now in a situation where that is what is going to happen. Clearly, it did not in the past and that is the problem that has been identified.

THE CHAIR: I am trying to see the future and the process of making sure that it is fair for all service providers, coming up to the expiry date of the contract. How do you decide to send out an expression of interest, or that you are quite happy with the services that the cleaners are providing? How do you manage that balance?

Mr Glenn: There are probably a couple of decisions in there. Prior to the expiry of the five-year point, which is the first opportunity to test the market, we would have a consideration of our satisfaction with the services that have been provided. We would probably also expect some market scanning: have there been innovations, new entrants in the market which might suggest that there is an opportunity for us to test the market to see if we can do better? Then there will other external factors, like decisions around whether services should be insourced or outsourced and also our readiness to adequately describe the services that we need.

For example, are our new stations online? What do we include in that, because that will change the nature of the services and the price? All of these things go into the decision-making about whether we test the market at the five-year mark or at the six-year mark, or seven or eight, given those extensions. We must test prior to eight because that is when we run out of contractual room to move. The situation that we do not want to get to is to be engaging in these services without a contract, which is what we have remedied through the TFM arrangement.

THE CHAIR: Suppose all of those boxes are ticked and you are quite confident that the service provider you are currently hiring to do the cleaning satisfies all those needs. I am just thinking in terms of putting it out there in the market. There might be some things out there in the market that you are not aware of, so when you are putting out an expression of interest you are actually expanding your knowledge of what is out there, as opposed to what you are aware of within the circle, if you know what I mean.

Mr Glenn: There are ways to market scan. Other research can be undertaken so that we have a better idea of what the state of the market is and what opportunities there are for us. I should say that those extension opportunities are also an opportunity for the service provider to say that they no longer wish to provide the service, if they are going in a different direction.

THE CHAIR: They have been doing it for the last decade. I am sure they can go on.

Mr Glenn: I hope we are a good customer, but the market does change and that is why we have these opportunities to go and retest.

THE CHAIR: Yes, but when the market changes how do you go about making sure that the experiences of other service providers are on your desk and you are actually seeing them, if there are no expressions of interest?

Mr Glenn: One can go out and see who is in the market. We can talk to other people who we know engage total facilities management companies. There are different ways to try and get intelligence about what the market is like. There is also the opportunity to go to expression of interest or into the formal procurement process. We do need to be certain that we want to go down those paths because, of course, that puts a lot of cost onto business to respond to us with their expression of interest. We would not do that unless we were going genuinely into an open, competitive process.

THE CHAIR: So that is the process you do before you send out an expression of interest. That is good to know. I was not aware. I think that is what I wanted to see. Thank you very much for that. Is there anything you would like to add?

Mr Gentleman: No. I think we have covered everything, thanks, Chair.

THE CHAIR: Wonderful. On behalf of the committee, I thank the minister and officials for your attendance today. When available, a proof transcript will be forwarded to you to provide an opportunity to check the transcript and identify any errors in transcription. If you undertook to provide further information or took questions on notice during the hearing, answers to those questions would be appreciated within one week from the date of this hearing, if practical. On behalf of the committee, I would like to thank all witnesses for assisting the committee with your experience and knowledge. This hearing is now adjourned.

The committee adjourned at 10.25 am.