

*Probity and the Public Record:  
Implications of the Review of  
Government Contracts:*

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Contracts, Jan-June 2000*

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*Victorian Government  
Contracting Out:*

- The Audit Review of Government Contracts-  
Terms of Reference and Approach
- Victorian Government Contracting: Scope, Extent  
Duration and Contracting Modalities
- Risks of Contracting v Risks of Traditional  
Service Delivery
- Priorities for Reform

## *The Audit Review of Government Contracts*

- The equivalent of “Audit Commissions” appointed by previous governments, but with important differences:
- Huge Task of Contract Analysis
- Focus on Contracts rather than the public service, financial management & debt
- 3 month rather than 6 months+ duration
- Balance of skills needed: legal, economic &c

## *The Audit Review of Government Contracts*

- Terms of Reference:
- Identify significant ongoing obligations and contingent liabilities
- Make recommendations on probity and disclosure
- Advise on disclosure of existing contracts
- Case Studies, assessing financial & non financial benefits to Victorian public

## *Approach of the Review*

- To identify ongoing obligations and liabilities, it was necessary to:
- scope and list the contracts after defining measures of materiality
- obtain copies of all contracts within the parameters
- undertake legal analysis & prepare summaries

## *Approach of the Review*

- To address probity and disclosure, the Review was guided by
- Submissions and Meetings
- Research
- Case Study Outcomes
- Other recent inquiries, especially the PAEC & ARC inquiries

## *Approach of the Review*

- To address public financial and non-financial benefits, the review undertook 7 case studies, assessing:
  - Contract provisions
  - Financial and Economic Issues
  - Social and Environmental Issues
  - Benefits and Disbenefits

## *Review Case Studies*

- City Link
- Casino
- One Link Automated Ticketing System
- Private Prisons
- Grand Prix
- Electricity Privatisation
- Bus/Train/Tram Contracts

## *Review Reporting Process*

- The Report was presented to Parliament by the Premier on June 1
- A number of issues are being addressed by government
- Follow up could include legislation, procedural change, commercial negotiations and Auditor-General investigation.

## *Victorian Government Contracting: I. Scope*

- Once contracting focussed on design, construction, maintenance & procurement
- Now scope extends also to many areas incl:
  - -Service delivery
  - -Corporate services (incl HR,IT,legal & financial services, aspects of policy)
  - -Operation of utilities & public transport
  - BOOT projects for  
CitvLink prisons hospitals

## *Victorian Government Contracting: II Extent*

- \$45 billion in 70 major contracts (including asset sales) reviewed by Audit Review of Government Contracts
- \$11 billion committed to future payments under these contracts
- 20% of Victorian public servants' role is now contract management
- Others in regulation, & other contract related work
- Contracts now in place for 10,12,15,20,40 & 54 year terms.

## *Victorian Government Contracting: III Durations*

- 10 Year - Bus contracts
- 12 Year - Tram Contracts
- 15 Year - Suburban Trains
- 20 Year - Prisons, Hospital
- 40 Year - Casino, Country Rail Freight
- 35/55 Year - City Link

## *Victorian Government Contracting: IV Modalities*

- Asset sales (trade sale)
- Franchising
- BOO
- BOOT
- Flotation
- Leasing
- Management Buyouts
- Design
- Construct
- Supply
- Employment
- Service Agreement

## *Benefits of Contracting*

- Improved service specification
- Access to supplier's expertise (often this is international expertise)
- Transfer of risk
- Lower cost services
- Opportunity to overcome long-standing stalemates

## *Risks of Contracting*

- Complexity
- Inflexibility
- Excessive Transactions Costs
- Diminished accountability, especially accountability to Parliament
- Loss of expertise, corporate memory/capacity
- Litigation
- Corruption, secrecy, “cosy government”

## *Public Records Issues...*

- The Review revealed many public records issues. These included:
- Extent of documentation related to contracts
- Lack of a central repository of contracts and related documents
- Need for a clearer control of records of former Victorian government agencies, now privatised or corporatised

## *Compelling Reasons to Resolve Public Records Issues...*

- Records may provide the fundamental documentation of the rights of citizens, businesses or the state
- Until the advent of privatisation and corporatisation, Victorian records had a high degree of integrity and continuing stewardship over many decades...too important to risk

## *Compelling Reasons (continued)...*

- Although operationally relevant records are intended to be with operators, there is a risk of loss of corporate memory (eg location of infrastructure)
- Rights of employees and customers
- Ultimately, or even immediately, heritage or historical values of records must be protected

*In my view we need...*

- Central inventory of contracts
- Clearer arrangements for the management of the records of privatised and corporatised bodies
- Action to remedy risks to information resulting from contracts in the 1990s, including recovery of certain records and new arrangements for others.