

FINANCE MINUTES

REPORT
306
JOINT
COMMITTEE
OF PUBLIC
ACCOUNTS

CA

THE PARLIAMENT
OF THE
COMMONWEALTH
OF AUSTRALIA

DECEMBER 1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
JOINT COMMITTEE OF PUBLIC ACCOUNTS

REPORT 306

FINANCE MINUTES

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JOINT COMMITTEE OF PUBLIC ACCOUNTS
SEVENTEENTH COMMITTEE

THE HON G F PUNCH, MP (Chairman)

SENATOR J O W WATSON (Vice-Chairman)

SENATOR B K BISHOP

SENATOR P J GILES

SENATOR S LOOSLEY¹

SENATOR THE HON M REYNOLDS

SENATOR C SCHACHT²

MR K J ALDRED, MP

THE HON J A CROSIO, MP

MR E J FITZGIBBON, MP

MR D J C KERR, MP

MR J V LANGMORE, MP

MR G B NEHL, MP

MR L J SCOTT, MP

MR P D SHACK, MP

MR A M SOMLYAY, MP

Secretary: Mr T R Rowe

Inquiry Staff: Dr S Hnatiuk
Miss Y Campagna

¹ Senator Loosley was appointed to the Committee on 24 August 1990.

² Senator Schacht was discharged from the Committee on 24 August 1990.

DUTIES OF THE COMMITTEE

Section 8 (1) of the Public Accounts Committee Act 1951 reads as follows:

Subject to sub-section (2), the duties of the Committee are:

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth including the financial statements transmitted to the Auditor-General under sub-section (4) of section 50 of the Audit Act 1901;
- (aa) to examine the financial affairs of authorities of the Commonwealth to which this Act applies and of inter-governmental bodies to which this Act applies;
- (ab) to examine all reports of the Auditor-General (including reports of the results of efficiency audits) copies of which have been laid before the Houses of the Parliament;
- (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,

and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

PREFACE

The Committee is constantly concerned that it deal efficiently with the follow-up procedures for Committee reports. Since 1952, the Committee has had a formal procedure known as a Department of Finance Minute, in which the actions taken in response to a report are reported to the Committee.

In accordance with this procedure, this Report publishes the Department of Finance Minutes which were submitted to the Committee in response to its Reports 297, 299, 302, 303 and 305.

This Report also contains the response of the Minister of Finance to the recommendations contained in the Committee's Report 301.

For and on behalf of the Committee.

The Hon G F Punch, MP
Chairman
20 December 1990

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INTRODUCTION AND COMMITTEE COMMENT

The Department of Finance Minute Process

1. Arrangements to ensure that appropriate action is taken in response to comments contained in each of the Committee's reports¹ have been in operation since 1952. These procedures involve the preparation of a response, known as a Department of Finance Minute (or, more briefly, a Finance Minute), as follows:

- . the Committee's report is tabled in the Senate and House of Representatives;
- . the Chairman of the Committee then forwards a copy of the report to the responsible Minister or Ministers and to the Minister for Finance with a request that the report be considered and the Chairman subsequently informed of actions taken and planned to address the Committee's recommendations;
- . the reply takes the form of a Finance Minute which, since the Committee reviewed its procedures in 1988 (Report 291 Revised Procedures for Reports of the Joint Committee of Public Accounts, June 1988) and refined them in 1989 (Report 301 Finance Minutes, 1989), is tabled in the Parliament as soon as is practicable after its receipt, with comment if necessary;
- . the Committee, under its revised procedure, then publishes annually, in one volume, all the Finance Minutes received in that calendar year, with additional comment if necessary; and
- . in some cases, the Committee undertakes a further formal inquiry into the matters dealt with in the initial report and the corresponding Finance Minute.

2. This Report contains:

- . the response of the Minister for Finance to the recommendations contained in Report 301 - Finance Minutes; and
- . the five Finance Minutes received by the Committee during 1990, namely:
 - Finance Minute on Report 297 - Management of the Antarctic Division;

¹ Formal responses to the Committee's reports are not prepared in the case of discussion papers, handbooks and the Committee's reports of activities.

- Finance Minute on Report 299 - Compliance with Guidelines for the Preparation of Departmental Annual Reports;
- Finance Minute on Report 302 - Engagement of External Consultants by Commonwealth Departments;
- Finance Minute on Report 303 - Review of Auditor-General's Efficiency Audits - Department of Defence; Safety Principles for Explosives and RAAF Explosive Ordnance; and
- Finance Minute on Report 305 - Review of the Finance Minute on Report 270 - "Implementation of Offsets Program".

The Finance Minutes on Reports 302, 303 and 305 were tabled on 13 September 1990 by the Chairman, the Hon G F Punch, MP.

Revised Committee Procedure for Tabling and Publishing Finance Minutes

3. The tabling and publication of the Finance Minutes contained in this volume should not be taken to mean that the Committee is completely satisfied with the contents of the Minutes. In particular, the Committee reserves the prerogative of conducting detailed analysis of a particular Minute at a later time. There have been instances when such analysis has led the Committee to a further formal inquiry.

4. The fact that detailed analysis of a Finance Minute may follow - rather than precede - its tabling and publication does not indicate the Committee has reduced in any way its oversight of the responses. Nor does it indicate any reduction in the importance with which the Committee views the Finance Minute process.

5. Rather, the Committee believes that the overall process of accountability is aided by the prompt tabling of Finance Minutes. This gives Parliamentarians and the public an opportunity to comment on the adequacy or otherwise of the response of departments to particular concerns and recommendations of the Committee. In turn, the Committee can only benefit from taking account of such comment when it considers the Finance Minute in detail at a late stage.

Report 301 - Finance Minutes 1989

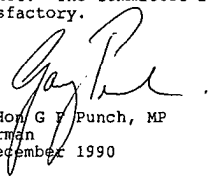
6. The Committee made two recommendations in Report 301, of which one was supported by the Government and the other rejected. The Committee is disappointed by the rejection of its recommendation that:

departmental responses to Committee reports be prepared, oversighted and signed at the Secretary level.

Report 304 - Guidelines for Departmental Annual Reports

7. The Department of the Prime Minister and Cabinet is revising the Guidelines for the Preparation of Departmental Annual Reports by Commonwealth departments and will incorporate into the Guidelines recommendations from the Committee's Report 304. Under section 25 of the Public Service Act 1922, the revised Guidelines will require approval by the Joint Committee of Public Accounts before they are presented to the Parliament by the Prime Minister and then released to the departments.

8. Report 304 was tabled in the House of Representatives by the Chairman of the Sixteenth Committee, the then Mr R E Tickner, MP on 21 December 1989, and the Committee is still awaiting the issue of the revised Guidelines by the Department of the Prime Minister and Cabinet. The Committee regards this delay as less than satisfactory.



The Hon G F Punch, MP
Chairman
20 December 1990

RESPONSE OF THE MINISTER FOR FINANCE TO
REPORT 301
FINANCE MINUTES



Minister For Finance

Hon Ralph Willis M P

The Hon Gary Punch, MP
Chairman
Joint Parliamentary Committee
of Public Accounts
Parliament House
CANBERRA ACT 2600

Dear Mr Punch

On 1 December 1989, your predecessor wrote to the then Minister for Finance, Senator Walsh, attaching a copy of your Committee's 301st Report. I am now responding to that letter and the further letter of your predecessor of 16 February 1990, which provided clarification of the recommendations contained in that Report.

Following my appointment as Minister for Finance, I drew the Report to the attention of all Ministers.

While the Committee's concern about the proper clearance of departmental views has been brought to the attention of departments, the Government considers that the appropriate level of clearance is a matter for it to decide. While that might appropriately be at Secretary level in some cases, there will be others where other levels of clearance are sufficient.

The Government supports the Committee's recommendation that, where it is necessary for a Government response on policy matters to be prepared, this response should be tabled separately from the Finance Minute within the timeframe applying to Government responses to other Committees' reports.

Yours sincerely

Ralph Willis

5 JUL 1990

FINANCE MINUTE ON
REPORT 297
MANAGEMENT OF THE ANTARCTIC DIVISION

DEPARTMENT OF FINANCE MINUTE ON REPORT 297

1. This minute has been prepared on the basis of the responses of the Department of Arts, Sport, the Environment, Tourism and Territories (DASETT), the Department of Administrative Services (DAS) and the Department of Finance.

2. In this minute each of the Committee's recommendations is reproduced in turn and is followed by the response.

Funding

Recommendation 1 (paragraph 4.54)

The Department of Finance give urgent consideration to providing additional resources to the Division. The Committee believes the Division's assessment of 20 staff and \$1.2m is a useful guideline for this task.

Response by the Department of Finance

3. Agreement has been reached between the Minister for Finance and the Minister for the Arts, Sport, the Environment, Tourism and Territories for a comprehensive funding arrangement covering a modified rebuilding program suggested by the Antarctic Division, future transport support (including trials of air support and if feasible, its introduction) and incorporating an additional 20 staffing positions for the purposes detailed in the Antarctic Division's submission to the Committee.

Response by DASETT

4. DASETT considers the provision of the additional staffing to be critical to the effective operation of the Division. The Department of Finance and DASETT have negotiated a revised funding package for the Antarctic Division which allows the funds for an additional 20 staff to be provided through a re-allocation of resources, based on a changed program emphasis requiring less expenditure on capital equipment. This package has been finalised by an exchange of letters between the Minister for Finance and the Minister for the Arts, Sport, the Environment, Tourism and Territories.

Science

Recommendation 2 (paragraph 5.18)

ASAC'S terms of reference be altered as follows:

a. After 6 add:

7. To advise the Minister, through the Secretary of the Department, on management matters in the Division when they have significant impact on the implementation of the scientific program.

b. In the concluding remarks delete:

b the management of the Antarctic Division.

Response by DASETT

5. DASETT accepts the recommendation noting that responsibility for the management of the Antarctic Division rests with the Secretary of the Department and relevant senior officers, not ASAC. ASAC advice should therefore be related to long term strategic management issues with implications for the science program, but not to day-to-day matters as such advice may cloud the relative responsibilities of ASAC and the Department. ASAC advises that the current arrangements under which the acting Director provides management reports to ASAC meetings constitute an appropriate basis for its consideration of such issues.

6. A revised set of the ASAC Terms of Reference is at Attachment A.

Recommendation 3 (paragraph 5.60)

ASAC:

- a. report to the Minister on the degree to which science should be conducted within the universities or research institutes as opposed to the Division but within ASAC's priority framework; the terms of reference should include ways in which scientific productivity can be increased; and
- b. those recommendations should be implemented no sooner than two years hence and no later than five years hence.

Response by DASETT

7. DASETT supports the proposal for a review by ASAC, but notes that there are resource implications. ASAC has been consulted and agrees that it is appropriate for it to undertake such a review and report to the Minister.

8. Subject to the report of the review and Government consideration of the report it should be practical to implement the proposals within the two to five year time scale as recommended.

Recommendation 4 (paragraph 5.59)

Consideration be given to the adoption of longer term appointments of scientists in line with the practices of the British Antarctic Survey.

Response by DASETT

9. DASETT accepts the tenor of this recommendation in that there should be sufficient flexibility to enable the length of appointments to be adjusted to ensure a project can be completed.

10. DASETT considers that with the new arrangements, which allow for transfer of funds from operational expenses to salaries, it should be possible to ensure that the appointments of scientists can be extended where necessary. ASAC has been consulted and agrees that the key requirement is to ensure that projects are brought to a satisfactory conclusion.

11. The British Antarctic Survey (BAS) model is based on scientists being contracted for an initial three years, with an option of being extended to five years provided they can ensure their work will lead to successful publication. The initial three year period comprises at first a period of training, followed by a two-year period in Antarctica for station based scientists and a third period at home to prepare data. In the case of field scientists they spend two summer periods in Antarctica. While there could be some advantage in the UK model which provides for a two-year stay in Antarctica, we would see difficulties in introducing such an arrangement, as we doubt that the bulk of Australian expeditioners would consider the long stay in Antarctica, as it has been our standard practice to have one year periods. BAS is the only Antarctic agency that has people staying in Antarctica for two years.

Recommendation 5 (paragraph 5.29)

ASAC review, either by itself or through AREG, whether the results achieved by Antarctic researchers can be assessed for publication and establish a system by which publishable results are made available.

Response by DASETT

12. DASETT understands that the JCPA has two concerns:

a) That data might be collected, but not be published or otherwise available.

While there are situations in which the results of particular projects do not lead to publication (eg because of problems with the experiments or because the research did not lead to new information) DASETT does not consider there is any substantial amount of publishable data which are collected but not published. DASETT considers that the existing mechanisms through which scientists gain recognition and promotion through publication provide a strong incentive to publish. The existing mechanisms ensure that only research of quality is published. DASETT considers these mechanisms to be appropriate and does not consider a review is justified.

The ASAC review (paragraph 5.60) will cover the concerns about incentives to publish.

b) That there should be a system to monitor the publications or other results arising from all scientific projects supported by the Antarctic Division or with ASAC grants.

13. DASETT accepts that a system for monitoring the publications or other results of projects should be introduced providing this can be done with minimum resources. ASAC agrees that a monitoring system is necessary and had been giving consideration to the appropriate form such a system should take. It is proposed that the ASAC Secretariat develop a simple system for consideration by ASAC and DASETT.

Recommendation 6 (paragraph 5.20)

The Department of ASETT supply ASAC with secretariat services and preclude Antarctic Division officers from those functions.

Response by DASETT

14. DASETT recognises that it is important for ASAC to feel confident in the integrity and independence of the secretariat.

15. DASETT considers the current practice of providing secretariat services from the Antarctic Division should be retained as it uses less resources than previously required to provide a separate secretariat. It should be noted that the current arrangements were introduced as an efficiency measure in response to the Machinery of Government changes and have resulted in a saving of one ASL. There are also advantages in terms of the improved flow of planning information, as the staff currently supporting ASAC also support the Antarctic Research Evaluation Group and the planning and co-ordination function within the Antarctic Division.

16. ASAC has been consulted and strongly supports the DASETT position. ASAC commented that the arrangement also provides necessary support for the Director in following up matters raised at ASAC meetings. ASAC advises that there have been no difficulties in relation to any conflict of interest or lack of independence.

Recommendation 7 (paragraph 5.13)

The Director of the Antarctic Division be required to submit regular management reports to the Chairman of ASAC.

Response by DASETT

17. Under current practices, the Chairman of ASAC is informed of significant management issues which are relevant to scientific issues, either by copying of relevant reports or by providing oral advice. The information included in particular reports can be varied to meet ASAC's requirements for advice on particular management issues with implications for the science program. DASETT does not see it as being appropriate to institute a system of reports to the chairman of ASAC on day-to-day management issues.

18. ASAC has been consulted and advises that the oral management reports currently provided by the Acting Director meet its requirements for management information.

Selection of Broker

Recommendation 8 (paragraph 3.54)

The Department of Administrative Services or an appropriate inter departmental committee establish appropriate selection and ongoing review procedures for shipping brokers for vessels to be chartered by the Division.

Response by DAS

19. In the light of the impact of commercialisation on the Purchasing and Sales Group, that Group is reviewing the arrangements for ship chartering on behalf of the Antarctic Division. That review, which will include the issue of appropriate selection and ongoing review procedures for shipping brokers, is to be carried out in consultation with our client and, as necessary, utilizing advice from the Transport and Storage Group of DAS and the Department of Transport and Communications.

20. However, the need to charter a vessel can arise at short notice and in the short term DAS would not wish to preclude utilizing existing arrangements in these circumstances.

Response by DASET

21. DASET supports the review of ship chartering proposed by DAS.

Staff Matters

Recommendation 9 (paragraph 4.26)

The Director of the Antarctic Division continue to circulate information from Executive meetings to all Division staff especially directives to staff and policy changes.

Response by DASET

22. DASET notes that this recommendation is in line with current practice which will continue to be followed.

23. Decisions made at Antarctic Executive meetings are circulated to all staff as "Administrative Circulars" within approximately one week of the meeting. This was implemented in July 1988. These are also available for perusal in the Division's Library.

Recommendation 10 (paragraph 4.26)

Directives issued by members of the executive, where applicable, be confirmed in writing.

Response by DASETT

24. DASETT notes that this recommendation is in line with the current practice which will continue to be followed.

25. Branch Heads (the constituents of the Executive) produce memoranda recording actions initiated and circulate to the action officer and to those with whom the action is likely to affect or influence.

Recommendation 11 (paragraph 4.26)

The Regional Consultative Committee or some mutually agreed alternative be the initial forum for raising and resolving staff/management issues.

Response by DASETT

26. DASETT accepts this recommendation. DASETT sees the following avenues as appropriate for the raising of staff management issues:

- . individuals with their supervisors;
- . individuals and groups through third tier consultative meetings;
- . workplace delegates through the Regional Consultative Committee and other forums;
- . officials of Staff Associations directly with Management; and
- . formal grievance processes where matters are not otherwise resolved.

Regional consultative meetings are held at approximately three monthly intervals and, while generally appropriate as a forum for raising issues, there are many matters that arise interessionally and require quick resolution. Hence a variety of mechanisms was proposed and is still supported. The Regional Consultative Meeting will continue to be an important forum in this dialogue.

Lady Franklin

Recommendation 12 (paragraph 3.38)

Should the Lady Franklin be rechartered by the Antarctic Division Mr Schulz's allegations about the chartering process be subject to an independent review in order to resolve these issues once and for all.

Response by DAS

27. DAS notes that on 26 May 1989 - prior to the tabling of the Report - the Polar Queen was chartered for the 1989-90 summer season in a competitive tender situation which included the Lady Franklin.

28. DAS does not consider that the Lady Franklin should, in any future tendering situation, be treated differently to any other suitable ship tendering for the service, as this could prejudice and encumber the tender process. Any review should be conducted outside and free of the tender process and only by those Departments normally involved in such tender process. DAS also notes that answers to all of the alleged irregularities raised by Mr Schulz have been provided in submissions to the Committee.

Response by DASETT

29. DASETT agrees that if consideration is being given to the charter of the Lady Franklin, all matters of possible concern about the vessel should be reviewed. The review would be conducted by the departments involved in the tender process.



S.T. SEDGWICK
A/g Secretary
Department of Finance

ATTACHMENT A

ASAC TERMS OF REFERENCE

With the objective of assisting in the development of Australia's policies and interests in the Antarctic, and taking into account Australia's foreign policy objectives and international obligations:

1. To advise the Government, through the Minister for the Arts, Sport, the Environment, Tourism and Territories, on:
 - a the broad thrust of Australia's Antarctic program, including scientific, exploration and support activities (including transport);
 - b priority areas for scientific and technological research, having regard to Antarctica's resource potential and the need for sound environmental management; and
 - c measures to ensure an effective Australian participation in international programs involving the Antarctic.
2. To recommend to the Government, through the Minister for the Arts, Sport, the Environment, Tourism and Territories:
 - a a five-year rolling program of Australian scientific activities in the Antarctic; and
 - b the type and level of resources necessary for the implementation of these activities, including research grants, fellowships and training schemes.
3. To advise the Secretary of the Department for the Arts, Sport, the Environment, Tourism and Territories on Australia's annual science program as developed by the Antarctic Division in conjunction with other expert bodies as appropriate, taking into account:
 - a the roles and responsibilities of other agencies and organisations involved in the Antarctic program;
 - b conformity with the five-year rolling program;
 - c research opportunities arising from logistic activities or significant natural events;
 - d scientific expertise and facilities available in government organisations, universities and other bodies; and
 - e the availability of resources.

ATTACHMENT A

4. To provide the Government through the Minister for the Arts, Sport, the Environment, Tourism and Territories with regular evaluation (at intervals of not more than three years) of the success of the Antarctic program in meeting Australia's objectives. A report on the evaluation should be published.
5. To advise the Government through the Minister for the Arts, Sport, the Environment, Tourism and Territories of any liaison arrangements between government departments and authorities, advisory bodies, research organisations and individual scientists which may be desirable to further Australia's Antarctic interests.
6. To undertake such other studies or reviews as the Minister for the Arts, Sport, the Environment, Tourism and Territories may from time to time request.
7. To advise the Minister, through the Secretary of the Department, on management matters in the Division when they have significant impact on the implementation of the scientific program.

The Committee's terms of reference should be interpreted as excluding matters directly related to diplomatic negotiations with other nations.

"Science" is intended to include scientific, technological, environmental, meteorological and cartographic work.

Reference to "Antarctic" is to be taken as including "sub-Antarctic".

FINANCE MINUTE ON
REPORT 299
COMPLIANCE WITH GUIDELINES FOR THE
PREPARATION OF DEPARTMENTAL
ANNUAL REPORTS

DEPARTMENT OF FINANCE MINUTE ON REPORT 299

1. This minute has been prepared on the basis of the response of the Department of the Prime Minister and Cabinet.
2. In this minute each of the Committee's recommendations is reproduced and is followed by the response.

Accessibility

Recommendation 1 (paragraph 3.30)

All departmental annual reports contain, in addition to any other form of index, a section that cross references the requirements of the Guidelines for the Preparation of Departmental Annual Reports to the contents of the report.

Response by the Department of the Prime Minister and Cabinet

3. A similar recommendation was made by the Senate Standing Committee on Finance and Public Administration in its report, "The Timeliness and Quality of Annual Reports". The recommendation is being taken into account in the Government's current work, with the JCPA, on revision of the annual report guidelines for departments.

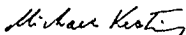
Conclusion

Recommendation 2 (paragraph 4.3)

All Ministers write formally to each departmental secretary reminding them of their obligations to report to Parliament in conformity with the Prime Ministers Guidelines referred to in Section 25 of the Public Service Act 1922. Ministers are also requested to highlight the bipartisan reports of the Public Accounts Committee and the Senate Standing Committee on Finance and Public Administration on this issue.

Response by the Department of the Prime Minister and Cabinet

4. This recommendation is also being considered in the context of the current revision exercise.



M S KEATING
SECRETARY
Department of Finance

FINANCE MINUTE ON
REPORT 302
ENGAGEMENT OF EXTERNAL CONSULTANTS BY
COMMONWEALTH DEPARTMENTS

DEPARTMENT OF FINANCE MINUTE ON REPORT 302

This Minute has been prepared on the basis of responses received from the Departments of Administrative Services, Industrial Relations, Attorney-General's and Finance and the Public Service Commission.

2. In this Minute each of the Committee's recommendations is reproduced in turn and is followed by the response.

Selection Procedures

Recommendation 1 (paragraph 6.6)

Emphasis be given to the need for consistent use of terminology across the Australian Public Service in the revised guidelines on engaging consultants.

Response by the Department of Administrative Services

3. The recommendation is accepted. In general, transactions and negotiations between public sector managers and private sector consultants are facilitated when there is shared understanding of the terms used. Definitions will be included in the revised Guidelines on the Engagement of Consultants. Emphasis will be given to the need for consistent use of terminology.

Recommendation 2 (paragraph 6.33)

Registers of consultants be maintained only as a means of collecting information on suitable consultants for a range of activities which are integral to a department's operations. Registers of consultants should not be maintained, however, if they impede the process of open competition in particular cases.

Response by the Department of Administrative Services

4. The recommendation is accepted. Creating and maintaining a register of consultants is one of a number of ways of obtaining information on potentially suitable consultants in particular fields. It can, however, be costly and time consuming. Some departments may not make sufficient use of consultants to warrant maintaining a register. In some cases, it may be preferable to call for expressions of interest when proposing to engage a consultant rather than to rely on a register of consultants. Individual departments will make their own assessments as to the approach that best meets their needs.

5. The need to have regard to the principle of open and effective competition when engaging a consultant will be stressed in the revised Guidelines on the Engagement of Consultants.

Response by the Public Service Commission

6. The Public Service Commission (PSC) shares the Committee's view on the limited value and high cost of maintaining registers. The PSC is of the view that the decision to maintain registers of consultants is properly one for departments and agencies. It notes the problems of keeping registers up to date and the consequent dangers of either excluding competent new consultants or retaining old organisations whose composition and competence may have deteriorated.

Recommendation 3 (paragraph 6.33)

Departments encourage all eligible firms to be included in the departmental registers of consultants.

Response by the Department of Administrative Services

7. The recommendation is accepted. The revised Guidelines on the Engagement of Consultants will advise departments that where registers are kept as a means of identifying prospective suppliers of consultancy services, there should be periodic approaches to the market to ensure that such sources of information are kept up to date.

Recommendation 4 (paragraph 6.33)

Selection of consultants be based on merit and the most appropriate consultant be selected in each case, and that the process of rotation not be permitted.

Response by the Department of Administrative Services

8. DAS supports the selection of consultants on the basis of value for money rather than merit alone. While the aim of selecting a consultant in each case should be to secure the services of the individual(s) and/or organisations well qualified to produce quality results, getting value for money includes ensuring that the benefits from engaging a consultant are commensurate with the costs.

9. In general, a process of rotation is not consistent with seeking to ensure value for money is obtained. There could, however, be exceptional cases where it is desirable to ensure that work is shared among competent consultants for the following reasons:

- . to ensure that an agency does not become dependent on a single source of advice or involved in "cosy" relationships; or
- . in cases where skills are in short supply, to maintain continuing competition in the market place.

Recommendation 5 (paragraph 6.33)

If awarding consultancy contracts partly as a result of recognition of previous successful work of the consultancy firm, regard be given to changing personnel within the firm which may have led to a loss of expertise.

Response by the Department of Administrative Services

10. The recommendation is accepted. It is acknowledged that the skills required for a consultancy are often possessed by specific individuals. Apart from individuals, however, consultancy organisations may, through their own systems, be able to offer proprietary methodologies and quality control arrangements that are of particular value in relation to some projects. As mentioned above, the aim in selection should be to secure the services of a consultant with the expertise necessary to produce quality results at competitive and realistic prices.

11. Departments may find it desirable to keep track of individuals with scarce skills or special knowledge of their departmental operations. The revised Guidelines on the Engagement of Consultants will note that where consultancy contracts are awarded as a result of recognition of previous successful work of a consultancy firm, regard should be had to any changes in personnel and skill profiles over time.

Conditions Under Which Consultants are Engaged

Recommendation 6 (paragraph 2.31)

The current threshold figure of \$2,000 for gazettal of Commonwealth consultancy contracts be maintained.

Response by the Department of Administrative Services

12. The recommendation is not supported. The current threshold figure of \$2,000 for notification was initially set six years ago. DAS believes that the figure needs to be kept under review and notes that its smallness has been a cause of complaint by agencies.

Response by the Public Service Commission

13. The current threshold of \$2,000 for gazettal of Commonwealth contracts is considered to be too low, given the market rates for consultancy services, which are \$1,200 to \$1,500 a day for management development consultants. The current threshold creates unnecessary administration and adds to the cost of programs.

Recommendation 7 (paragraph 2.35)

The database for the Government Tender Service be organised in such a way that allows for public and parliamentary scrutiny of government contracts.

Response by the Department of Administrative Services

14. The recommendation is supported. The Government Tender Service database will provide details of public invitations for offers and the Contracts Arranged database will provide details of contracts and purchase orders arranged. The databases will be accessible through on-line subscription services in the normal way on a fee for service basis.

15. Development of the Contracts Arranged database is in the final stage of testing with data for the 1989-90 financial year currently being captured.

Recommendation 8 (paragraph 2.35)

Provision be made in the programming of the Government Tender Service database to enable the Parliament to obtain total figures on contracts awarded to consultants.

Response by the Department of Administrative Services

16. The recommendation is supported. The database will enable statistical reports to be produced on the value of contracts awarded to consultants, the only limiting factor being the integrity of information supplied by departments. The database has been organised to allow key word searching of designated fields to produce reports on all types of government contracts.

Recommendation 9 (paragraph 2.48)

The Department of Finance develop a series of guidelines advising on drawing up comparisons between using in-house and external expertise for specific activities executed within government programs.

Response by the Department of Finance

17. As part of its forthcoming revision of the Department of Finance Discussion Paper "Guidelines for Costing of Government Activities", Finance will include, where practicable, guidelines on drawing up cost comparisons between using in-house and external expertise for specific activities executed within Government programs.

Recommendation 10 (paragraph 2.77)

The Public Service Commission review post-separation employment in the Australian context.

Response by the Public Service Commission

18. As part of a wider review of guidelines and procedures including the disciplinary procedures, the PSC will review post-separation employment guidelines to ensure their continued relevance.

19. Referrals on post-separation employment have been very few and insignificant. Post-separation employment is covered by the Guidelines on Official Conduct. In addition, the provisions of the Crimes Act apply. Supplementing these authorities, there are provisions under the Superannuation Act applying to the reappointment of former public servants.

20. The PSC determines the effect of its policies and procedures by the referrals of case work by agencies (ie, cases that cannot be handled by departments under existing guidelines).

Response by the Department of Administrative Services

21. The recommendation is noted. DAS is concerned that departments should continue to be able to employ the most suitable consultant for a particular project and should not be prevented from doing so because that person may have been a former employee. In addition, restrictions should not normally be placed on individuals' freedom to choose or leave employment.

Recommendation 11 (paragraph 2.77)

The Public Service Commission ascertain whether trends and developments as have occurred in the United States have occurred in Australia with a view to introducing comparable legislation in Australia should this be warranted.

Response by the Public Service Commission

22. The PSC is currently examining overseas experience with post-separation employment.

Guidelines for the Engagement of Consultants

Recommendation 12 (paragraph 3.37)

The Purchasing Reform Group proceed with the development of guidelines which focus specifically on the procurement of consultancies.

Response by the Department of Administrative Services

23. The recommendation is accepted. In a Commonwealth Procurement Circular in February 1990, departments were advised by the PRG about procedures for the engagement of consultants in the new purchasing environment. PRG is developing revised Guidelines which will deal exclusively with the procurement of consultancy services.

24. In February 1990, PRG wrote to representatives of professional groups providing consultancy services seeking their involvement in the development of the revised Guidelines. In the light of responses so far public discussions are planned for May 1990.

25. Comments provided by departments have been taken into account in revising the Guidelines and interdepartmental consultation is continuing.

26. Subject to the views of the Minister for Administrative Services, DAS expects that the revised Guidelines will be issued as a Commonwealth Procurement Guideline by the beginning of the new financial year in the same format as the guidelines recently published.

Response by the Public Service Commission

27. The PSC supports this recommendation and suggests that the Guidelines for the Engagement of Consultants be rewritten in a plain English, results-oriented format.

Recommendation 13 (paragraph 3.37)

The guidelines be strongly promoted in both the public and private sectors.

Response by the Department of Administrative Services

28. The recommendation is accepted. The review process is involving considerable consultation with both the public and private sectors.

29. The revised Guidelines will be widely disseminated and promoted. They will be made available through AGPS bookshops and this will be drawn to the attention of consultants' associations.

Response by the Department of Finance

30. The Department of Finance notes that the revised Guidelines for the Engagement of Consultants will be included in the Commonwealth Managers' Toolbox when they become available. The Toolbox is a compact disc product which allows users to access all of the procedural and legislative manuals commonly used in the Australian Public Service (APS) through any IBM compatible personal computer. The Toolbox will be widely promoted within the APS by Finance and will also be for sale through AGPS bookshops.

Public Service Consultancies

Recommendation 14 (paragraph 4.28)

'The Development Consultants' be expanded into a management consultancy bureau along the lines of the Canadian model, with appropriate modifications to meet the requirements of the Australian Public Service.

Response by the Public Service Commission

31. The PSC believes that the consultancy needs of the APS could be better met with more effective use of existing expertise and has doubts about the appropriateness of the Canadian model for the APS.

32. In July 1987, the Government accepted the recommendation of the Efficiency Scrutiny Unit to:

"devolve responsibility for management improvement programs from the Public Service Board to departments...."

33. As a result, the then Management Improvement Division of the Board was closed down and its staff were redeployed. There were no adverse reactions from users.

34. The PSC is of the view that the establishment of a centralised bureau, regardless of its location, would go against the Government's moves to decentralisation and devolution. In particular, the claimed advantages of the Canadian model may be diminished by the fact that it acts as a "middle-man" - subcontracting out consultancies to the private sector, thus increasing the likelihood of slower response times and greater costs.

35. The central issue in determining whether a central public service consultancy organisation should be established, however, is cost-effectiveness. The comparative effectiveness of a central consultancy bureau could not really be determined until a comparison of costs (full costs including the cost of maintenance and upgrading of skills) is available (Recommendation 9 refers).

Response by the Department of Administrative Services

36. The recommendation is noted. The Canadian Bureau of Management Consultancy forms part of Supply and Services Canada which carries out many of the functions, including centralised purchasing, carried out in Australia by DAS. DAS is attracted to the possibility of developing period contracts for management consultants and is proposing to examine this in detail over the next few months.

Response by the Department of Finance

37. Finance considers that there may be scope for more of the Commonwealth's consultancy needs to be provided by better use of existing resources, but questions whether these would best be provided by the establishment of a centralised bureau which may replicate services that are already available within the Commonwealth sector, add to outlays and result in underutilisation of resources.

38. In Finance's view there is already considerable scope for departments to market their expertise in the form of consultancy services through the use of departmental charging arrangements and net appropriations. Finance is already providing this type of consultancy to other departments and agencies in assisting them to set up management information systems, and will encourage other departments to pursue this approach. Indeed, this approach may have some advantages over a centralised agency specialising in consultancies which could lose touch with mainstream developments.

Recommendation 15 (paragraph 4.32)

Consultancy units be established to assist in the selection of specialist consultants.

Response by the Department of Administrative Services

39. The recommendation is noted. The revised Guidelines will encourage departments to seek advice from appropriate functionally specialist areas within the Commonwealth when considering the engagement of consultants. DAS does not, however, see a need for the establishment of any new specialist units on the model of the Office of Government Information and Advertising as suggested by the Committee.

Monitoring Procedures

Recommendation 16 (paragraph 7.17)

Post-performance reviews be required for all consultancies that meet the Department of Administrative Services' guidelines for gazettal and a significant number of random reviews be conducted of consultancies which fall outside these guidelines. Each review should address:

- whether the terms of reference for the consultant have been adequately addressed;
- whether the project conducted by the consultant could be adequately adopted and implemented by the organisation;

- the quality of the consultant's performance; and
- the completed reviews should be forwarded to consultancy units advising in the use of specialist consultants.

Response by the Department of Finance

40. The budgetary and regulatory environment which has been developed since 1984 both encourages and requires managers to make the best use of the resources available to them. Managers are now held accountable for the impact of their decisions on the performance of their programs. Decisions about the use of consultants are subject to the same criteria.

41. Regular and systematic monitoring of performance during and after an activity or project is part of good management. Managers may find that formal reviews at the completion of a consultancy are useful for their own purposes. The form of a review and the circumstances in which it is undertaken should remain the responsibility of managers themselves. Finance is of the opinion that the use of a standardised review format is not necessary to meet the information needs of managers in the selection of consultants as other references are available. Finance considers, however, that the use of referees' reports in the selection of consultants should be included in the relevant guidelines.

Response by the Department of Administrative Services

42. The recommendation is not accepted. DAS believes that regular monitoring of performance is an integral part of sound management. The 1988 DAS Guidelines state that evaluations should be made at a number of different levels throughout the course of a consultancy project.

43. The nature and extent of evaluations and reviews should be related to the complexity, duration and cost of a consultancy. There will be some consultancy arrangements of low value or short duration for which a detailed formal process may not be appropriate. Evaluations of consultancies should not be linked with the requirement to notify in the Gazette.

44. The issue in general terms has been covered in the recently issued Commonwealth Procurement Guideline (No 9) on Managing Performance. That Guideline notes that effective performance management involves setting objectives, defining key areas where results are expected, establishing targets or standards, developing appropriate performance indicators and reporting on progress and action to be taken.

45. The revised Guidelines on the Engagement of Consultants will include advice about the need to manage with a focus on outcomes. This would include post performance reviews, where appropriate, covering issues such as whether the terms of reference for the consultant have been adequately addressed and the quality of a consultant's performance.

46. The question of appropriate procedures is properly one for departments. This is consistent with the general reduction of central regulation of detailed processes and procedures in the administration of financial and personnel matters.

47. It is noted that the recently issued Commonwealth Procurement Guideline (No 9) on Managing Performance advises that departments consider establishing systems to monitor performance and centralising their records to the extent necessary to enable information sharing on the performance of their consultants.

Response by the Public Service Commission

48. The PSC supports the Finance response.

Adequacy of Contracts

Recommendation 17 (paragraph 8.10)

The Commonwealth adopt a standard form contract for general use.

Response by the Attorney-General's Department

49. Although standard forms of Consultancy Agreement do exist, the adoption of a standard form contract does not remove the need for an agency to consult the Australian Government Solicitor in many cases. Where it appears that there may be any degree of difficulty or novelty in a particular instance or class of cases, it is desirable that this Department be consulted so that the Commonwealth's interest can be protected. This Department might also be consulted, as a matter of prudence, in other cases.

Response by the Department of Administrative Services

50. DAS supports this recommendation. In co-operation with the Australian Government Solicitor, a standard form contract for general consultancy assignments has been developed and is incorporated in the existing Guidelines on the Engagement of Consultants.

Recommendation 18 (paragraph 8.10)

Where special circumstances exist individual agencies deal directly with the Australian Government Solicitor in developing an appropriate contract.

Response by the Attorney-General's Department and
the Department of Administrative Services

51. The recommendation is supported.

Recommendation 19 (paragraph 8.16)

Procedures for monitoring and publicising changes to
standard contract forms be established.

Response by the Attorney-General's Department

52. In 1986 this Department established a procedure for clearing all of the then existing standard form agreements and for their subsequent review every three years. The procedure was publicised by the circulation to all departments of Legal Agreement Guidelines Circular No. 1. Of course, if a fundamental change were to occur in the law of contract which would affect existing standard form agreements, then this Department has the responsibility to, and would, inform relevant departments of that change.

53. This Department is the primary provider of legal services to other departments and to certain agencies but those organisations also have a responsibility under Legal Agreement Guidelines Circular No. 1 to ensure that their standard form agreements are kept right up to date. If those organisations follow the procedures in that circular this recommendation would be satisfied. This department will write to those organisations to emphasise the need to follow the procedures in that circular and will follow up with those departments which do not, to the knowledge of this Department, comply with that guideline.

Response by the Department of Administrative
Services

54. This recommendation is supported. It is fundamental to the viability of all standard form contractual documents that the Australian Government Solicitor should have a continuing monitoring role and be responsible for version control.

The Issue of Deskilling

Recommendation 20 (paragraph 9.14)

Where consultants are engaged to work in collaboration with public sector employees, due care be taken to ensure that public sector employees are given similar opportunities to enhance their skills as those available to external consultants.

Response by the Public Service Commission

55. The Australian Public Service cannot maintain an extensive skills base for its own sake and without regard to cost. Given the continuing pressure on financial resources and the demand for results, the strategic relevance and priority of in-house skills must be constantly tested.

56. The argument is really one of cost-effectiveness. Managers have to weigh the costs of not developing or maintaining skills in terms of forgone opportunities, eg in quality of program design or policy advice. Consultants can assist in the development of in-house skills. Departments may be aided by strategic human resource planning in determining which skills are important to develop and retain and which skills are best obtained through consultants.

Response by the Department of Industrial Relations

57. Although not wishing to directly comment on the issue of deskilling, this Department's experience with the engagement of consultants for the Australian Workplace Industrial Relations Survey (AWIRS) has, in fact, resulted in skill enhancement rather than deskilling. Indeed, the most highly skilled components of AWIRS - questionnaire design, survey design and analysis - are being undertaken within the Department. Only the more routine/lower skill tasks - data collection and processing - have been contracted out.

58. The use of consultants for AWIRS recognises that it is not cost effective to develop the types and quantity of skills required for such tasks within the Department when they are likely to be used only once every four or five years.

59. In summary, the Department believes that it has got value for money from the AWIRS consultancy, particularly by saving unnecessary overhead costs. In addition, supervising the consultant in the performance of the required work has resulted in a significant degree of skill enhancement for departmental officers. This has occurred both in relation to project management skills and a range of technical skills related to interviewer training and management and survey logistics.

Response by the Department of Administrative Services

60. The recommendation is supported. When consultants are engaged, particularly as a result of skill shortages, it is desirable that departmental officers work along side consultants to facilitate the transfer of skill.

Recommendation 21 (paragraph 9.19)

Commonwealth departments and agencies be individually responsible for the systematic evaluation of the overall impact of the use of consultants on their respective organisations to ensure that no inadvertent loss of skills occurs.

Response by the Departments of Finance and Administrative Services and the Public Service Commission

61. The recommendation is supported.

Recommendation 22 (paragraph 9.28)

Career paths based on technical expertise be established within the public sector.

Response by the Department of Industrial Relations

62. Existing Position Classification Standards already provide scope for senior technical positions in relation to the Computer Systems Officer (CSO) structure. These standards refer to specialist advice and technical investigations amongst the duties of the CSO 3,4 and 5 levels. Some agencies have used senior technical positions at the CSO 4 and 5 levels (these staff may be part of a work team managed by a peer with administrative responsibility for the team).

63. Other classification structures - such as in the engineering and science fields - also enable employing agencies to deploy senior level positions to provide specialised technical knowledge and expertise.

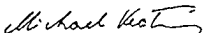
64. The November 1989 Structural Efficiency Agreement between the Government and the ACTU emphasises the establishment of a highly skilled and adaptable workforce with increased access to modern technology and enhanced career opportunities. Among other things the Agreement covers measures to promote the acquisition of required skills, including through improved training. The Agreement also provides for the further development and improvement of specific skill-related career paths within and between professional, technical and trades classifications. In particular, the Agreement includes measures to increase staff mobility and flexibility by the establishment of integrated and linked structures covering administrative, professional, technical and physical grades classifications. It also provides for a category review of CSOs which will include consideration of qualification and training requirements for CSOs and career paths for computing staff.

65. In December 1989 the Government and relevant unions also entered into a Structural Efficiency Agreement on Senior Executive Service (SES) pay and structural arrangements. As part of this Agreement a new category of SES (Specialist) was formed to improve career paths for professional and specialist groups. Positions with a demonstrable need for a specialist with high level expertise will be available, including for computer areas.

66. The various reforms will therefore establish staffing structures with sufficient flexibility to enable departments to develop the sorts of career structures recommended by the JCPA. However, implementation of the staffing structures is the responsibility of each departmental Secretary based on their needs and their most cost-effective solution, ie the recommendation cannot be implemented by a directive from a central agency.

Response by the Public Service Commission

67. The PSC supports the Department of Industrial Relations' response.



M S KEATING
SECRETARY
Department of Finance
24 May 1990

FINANCE MINUTE ON

REPORT 303

REVIEW OF AUDITOR-GENERAL'S EFFICIENCY
AUDITS - DEPARTMENT OF DEFENCE: SAFETY
PRINCIPLES FOR EXPLOSIVES AND RAAF
EXPLOSIVE ORDNANCE

DEPARTMENT OF FINANCE MINUTE ON REPORT 303

1. This Minute has been prepared on the basis of responses received from the Departments of Defence and Finance and Australian Defence Industries Pty Ltd.
2. In this Minute, each of the Committee's recommendations is reproduced in turn and is followed by the response.

Recommendation 1 (paragraph 2.12 of Report 303)

For instances where the Joint Committee of Public Accounts is undertaking an inquiry into an Auditor-General's restricted report subject to an Attorney-General's certificate under s.48F(5) of the Audit Act 1901, information necessary for the conduct of the inquiry should be made available to the Committee. Where confidential documents that the Committee considers relevant to an inquiry are required, they should be provided on a restricted and in-camera basis.

Response by the Department of Finance

3. This is a matter which will be considered by the Government, any necessary amendments to the Audit Act 1901 being made as part of the major review of that Act which is being undertaken as a consequence of the Committee's 296th Report entitled 'The Auditor-General: Ally of the People and Parliament'.

The Safety Principles Instruction

Recommendation 2 (Paragraph 3.24 of Report 303)

The safety principles instruction provide for individual notification to all landholders and residents who are affected in any way by any outside quantity distance emanating from the storage of explosives, whether or not a Public Risk Waiver is required.

Response by the Department of Defence

4. The recommendation is agreed except for the requirement to notify those residents who are tenants, where they are not affected by a public risk waiver. These tenants need not be notified because they are not directly affected by safety considerations in these circumstances, or land use planning which is the concern of landholders and planning authorities.

The Waivers Instruction

Recommendation 3 (Paragraph 4.11 of Report 303)

Audits conducted by the Explosives Storage and Transport Committee should be undertaken at random and not advertised as proposed in the draft Instruction on monitoring and auditing of Defence Explosives safety practices and procedures.

Response by the Department of Defence

5. The reason for recommending random audits is appreciated. However, to rely exclusively on random audits will not necessarily result in the most beneficial outcome. Therefore, it is proposed to retain programmed audits as the principal means of auditing, superimposed with a random audit function.

6. The most beneficial audits will be those conducted in conjunction with appropriate licensing and monitoring authorities, and the key personnel of the facility being audited. The presence of these functionaries cannot be guaranteed without giving reasonable notice, particularly to the licensing and monitoring authorities who by design, are independent of explosives storage facilities, and have their own nationwide inspection programs to attend to.

7. Programmed audits would facilitate co-ordination and implementation, whereas over reliance on random audits, which did not involve these authorities and personnel, would run the risk of producing only limited benefits.

8. It is also important that audits do not unduly interrupt the roles of facilities being audited, and this is a very real possibility with random audits, especially if they occur during periods of peak activity.

9. The audit functions proposed by Defence can be fulfilled with the resources currently approved for this purpose.

Recommendation 4 (Paragraph 4.15 of Report 303)

All Australian Ordnance Council audit reports on adherence to Departmental Instructions be sent in the first instance to the Chief of the Defence Force and the Secretary.

Response by the Department of Defence

10. This recommendation is agreed and provision to this effect is being promulgated as policy in the appropriate Defence Instruction.

Recommendation 5 (Paragraph 4.19 of Report 303)

Independent audits of adherence to Department Instructions commence immediately.

Response by the Department of Defence

11. The requirement to conduct independent audits has been promulgated as policy in the appropriate Defence instruction. However, the audit function cannot commence until the recruiting of appropriately qualified staff is finalised in the near future.

Processing of Waivers

Recommendation 6 (Paragraph 5.15 of Report 303)

The Instructions relating to processing of waiver submissions be amended to provide for a strict timetable of four weeks from the date a Public Risk Waiver (PRW) requirement is first identified to the time it reaches the Minister.

Response by the Department of Defence

12. The intention of this recommendation is appreciated. However, it is considered inappropriate to prescribe a precise time limit on the processing of Public Risk Waiver submissions because of the varying degrees of technical complexity and detailed consultation that may be involved. It is also considered that current Defence policy will ensure that waiver applications are progressed in a timely manner. Under the current policy, activity that would require a waiver must not be commenced prior to the issuing of a waiver unless this is not practicable. In those circumstances, the requirement for a waiver is to be reported to an appropriate authority as a matter of priority pending the preparation of a waiver submission. In the case of a Public Risk Waiver, this authority is the Minister for Defence.

Safeguarding

Recommendation 7 (Paragraph 7.25 of Report 303)

Safeguarding maps be prepared and distributed to local councils and affected landholders surrounding Defence establishments containing stored explosives, and that the maps reflect as far as possible long term interests of Defence.

Response by the Department of Defence

13. This recommendation is agreed. The requirement to distribute safeguarding maps to local councils is already promulgated as policy in the appropriate Defence Instruction, while the requirement to distribute safeguarding maps to affected landholders is being promulgated as policy in that Defence Instruction.

Recommendation 8 (Paragraph 7.30 of Report 303)

The Department examine more closely the option of acquiring land and leasing it back to the previous owner where the land is affected by outside quantity distances in order to ensure control over its explosives storage operations.

Response by the Department of Defence

14. The Department has examined this option and agrees that the acquisition of land and lease back to the previous owner would be appropriate in some circumstances where the land is affected by outside quantity controls. Provision to this effect is being promulgated as policy in the appropriate Defence Instruction.

Recommendation 9 (Paragraph 7.37 of Report 303)

Regulations be made under the Defence Act 1903, similar to the proposed Defence Area's Control Regulations, to ensure that no incompatible development adjacent to Defence establishments is allowed to occur that would affect Defence's operational capability and that landholders affected by the Regulations are adequately compensated for any adverse effect to their land.

Response by the Department of Defence

15. The intention of this recommendation is appreciated, however, its adoption is considered unnecessary because of the provisions that exist under the recently enacted Lands Acquisition Act 1989 (the Act). In the event that formal safeguarding negotiations and arrangements with local planning authorities prove to be unsuccessful, resulting in the likelihood of incompatible development on land adjacent to a Defence establishment, provision exists within the Act for Defence to acquire, by agreement or by compulsory means, an interest in that land with adequate compensation paid to affected landholders.

Recommendation 10 (paragraph 9.9 of Report 303)

The Australian Defence Industries (ADI) Instruction be amended to clarify the reference concerning the approving authority for a Public Risk Waiver.

Response by Australian Defence Industries Pty Ltd

16. The Managing Director of ADI has issued an amendment to the Australian Defence Industries Pty Ltd Explosives Safety Policy as recommended by the paragraph 9.9 of the Report. The amendment confirms that the Minister for Defence is the ultimate approving authority for public risk waivers.

Office of Defence Production (ODP) and Maribyrnong

Recommendation 11 (Paragraph 9.15 of Report 303)

A master plan for the effective co-ordination of explosive operations at Maribyrnong be produced without further delay.

Response by the Department of Defence

17. This recommendation is agreed and action to this effect is in hand. A Site Liaison Committee has been established at Maribyrnong to co-ordinate the explosives related activities of the area including the production of a master plan as a matter of priority.

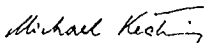
RAAF Bases

Recommendation 12 (Paragraph 11.7 of Report 303)

The revised Instruction be amended to provide for the Australian Ordnance Council (AOC) to be consulted where confusion exists as to the application of the NATO Safety Principles.

Response by the Department of Defence

18. This recommendation is agreed and provision to this effect has been promulgated as policy in the appropriate Defence Instruction.



MS KEATING
Secretary

FINANCE MINUTE ON

REPORT 305

REVIEW OF THE FINANCE MINUTE ON REPORT
270 - "IMPLEMENTATION OF THE OFFSETS
PROGRAM"

DEPARTMENT OF FINANCE MINUTE ON REPORT 305

1. This Minute has been prepared on the basis of responses received from the following Departments:

Administrative Services;
Attorney-General's;
Defence;
Industry, Technology and Commerce; and
Treasury.

2. In this Minute, each of the Committee's recommendations is reproduced in turn and is followed by the response.

Information for Overseas Company Participants on Local Industry

Recommendation 1 (paragraph 2.27 of Report 305)

The Committee recommends that the Department of Industry, Technology and Commerce investigate means of economically:

- establishing and maintaining a database of local industry capability; or alternatively
- upgrading Austrade's APSIS database to provide suitable verifiable information.

Response by the Department of Industry, Technology and Commerce

3. This recommendation is accepted. The Department of Industry, Technology and Commerce (DITAC) notes that the National Engineering Information Service already provides a broad database of engineering capability; the State Offsets Authorities and Industrial Supplies Offices possess extensive databases, and there is a number of other private sector-owned database services.

4. DITAC has commenced an investigation of the costs, benefits and means whereby access to an appropriate database of local industry capability could be provided. It will consult with relevant areas of industry on their preparedness to contribute to the establishment and maintenance of such a database.

5. The Australian Trade Commission (Austrade) has advised that APSIS no longer services the needs of Austrade and consequently further development of it has been severely curtailed. As a result, the database is unlikely to be suitable for offsets purposes.

Information for Local Firms on Offsets Opportunities

Recommendation 2 (paragraph 2.50 of Report 305)

The Committee recommends that outstanding offsets obligations of individual companies and the age of such obligations be published in the annual report of the Offsets Program. Information concerning offsets arrangements and acquittal plans be released on a periodical basis.

Response by DITAC

6. This recommendation is not accepted as it is contrary to Government policy, which was recently reaffirmed by the Minister for Industry, Technology and Commerce.

7. Following the Government's consideration of the Report of the Committee of Review on Offsets (the Inglis Review) in 1986, it decided that details of outstanding offsets commitments and acquittal plans of individual companies would not be published except in the case of major delinquencies. In this respect, the Inglis Committee's recommendation was based on companies' adverse reaction to the public disclosure of their offsets obligations.

8. The Inglis Review did recommend that the Government continue the practice of supplying, on request, the names of prime contractors with offsets obligations which may be interested in placing work with Australian firms. DITAC does this through the publication of the Australian Civil Offsets Program's List of Overseas Participants. This directory, which is regularly updated, provides details of overseas companies, their areas of interest, contact points and their offsets status in broad terms. The offsets status of participating firms is also published in broad-banded form in the Annual Report of the Program.

Response by the Department of Defence

9. As indicated to the Committee in Defence's submission and evidence, one of the recommendations of the Inglis Committee's Review on Offsets was that details of outstanding commitments and acquittal plans of individual companies not be published, except in the case of major delinquencies.

10. The Department of Defence continues to observe this procedure, for the reasons given to the Committee in evidence (pages 562 - 565), and updates annually, publishes and distributes the "Australian Defence Offsets Program - List of Participants" which contains information on the companies, their Australian contact, the equipment/services to be supplied, an indication of the value of the contract and whether the obligation has been discharged or not. Similarly, aggregated information is published in Defence's Departmental Annual Report and this practice will be continued.

Recommendation 3 (paragraph 2.50 of Report 305)

The Committee recommends that future offsets contracts and Partnerships for Development agreements exclude clauses restricting the disclosure of nett offset obligations.

Response by DITAC

11. This recommendation is not accepted. The release of details of offsets commitments without the agreement of the company concerned would be contrary to Government policy and this is reflected in these contract clauses (see the response to Recommendation 2).

12. Insistence that future contracts and agreements provide for disclosure of nett offset obligations would be inconsistent with Government policy and runs a real risk that activities particularly attractive to Australian industry may be lost.

Response by the Department of Defence

13. The Department of Defence does not include clauses restricting the disclosure of nett offset obligations in its contracts and deeds. However, nett offset obligations are not disclosed because they expose commercially sensitive information about a company to its competitors. This has again been confirmed by a survey conducted by Defence during the course of the Committee's inquiry with major companies participating in the Defence Offsets Program. The strong reaction of the companies to the disclosure of this type of information was also conveyed to the Committee in Defence's submission and evidence (pages 562 - 565).

Information from Government to Industry

Recommendation 4 (paragraph 2.63 of Report 305)

The Committee recommends that efforts be made to ensure that publication and distribution of consolidated forward procurement plans for all departments and agencies subject to the Offsets Program proceed without delay.

Response by the Department of Administrative Services and DITAC

14. The Department of Administrative Services (DAS) and DITAC accept this recommendation in principle. Better procurement planning is an important requirement of the planning reforms being introduced by Government; it is the subject of Commonwealth Procurement Guideline (CPG) Number 4, which was issued in October 1989.

15. There is currently a mandatory requirement for departments to prepare strategic plans every three years in respect of information technology and to submit a three year forward procurement plan to DAS each year. There are, however, no mandatory requirements for the preparation or publication of plans for areas other than information technology. At this stage, the emphasis on improving planning lies in consultation and discussion.

16. In this regard, DAS and DITAC conducted a forward procurement planning seminar in April 1990 as a means of identifying a practical option for Commonwealth departments to prepare and release plans to the private sector. Participants at the seminar were drawn from departments with major purchasing responsibilities and industry associations. The formal agreement of departments has yet to be sought.

17. It was agreed in principle that Commonwealth agencies should prepare and release plans. Further, it was agreed that plans should be of standard format and content. However, it was acknowledged that the nature of some departments' activities may require variance from this standard. The Department of Defence is a leader in forward procurement planning practices and has developed an approach to meet its particular need, as explained below.

18. DAS and DITAC are planning to conduct a further seminar in July 1990 to share ideas with Government Business Enterprises and, where possible, gain their agreement to a standard approach.

Response by the Department of Defence

19. The Department of Defence does publish a Forecast of Minor Defence Capital Equipment Procurement for a five year period. The availability of this document is advertised to local and overseas industries and is supplied on request. Defence believes that adequate information on major defence purchases is available to industry through Government statements on future plans and ongoing contact with industry.

20. Defence believes that the inclusion of information on Defence capital purchases in a consolidated list for all agencies is inappropriate because it would simply result in an unnecessarily large and costly publication which, because of the specialist nature of the industry sector targeted, would not provide any advantages.

Information on Offsets Policies of Overseas Countries

Recommendation 5 (paragraph 2.75 of Report 305)

The Committee recommends that the Department of Industry, Technology and Commerce prepare and maintain a comprehensive and up to date record of overseas offsets policies and practices to be distributed to all personnel involved in the administration of the Offsets Program.

Response by DITAC

21. This recommendation is not accepted. DITAC seeks to keep itself well informed of developments in the offsets policies and practices of major countries with approaches most comparable to Australia's, the most notable being Canada. DITAC performs the monitoring both directly, and by taking advantage of studies by bodies such as the Organisation for Economic Co-operation and Development (OECD), in order to have a broad understanding of the basis on which other countries enter into negotiations with the major international corporations.

22. Given that over 100 countries utilise offsets policies of one sort or another, it is not possible, nor cost effective to attempt to maintain a complete record of overseas policies and practices. A further difficulty is that very few, if any, countries have policies as transparent (that is, with such clear published guidelines and objectives) as Australia's.

23. The more fundamental point is that each country has its own basic approach and practices tailored to its own needs. There is thus little to be gained in terms of the good administration of the Australian Civil Offsets Program in attempting to monitor overseas practices to the extent sought by the Committee.

24. DITAC will, however, continue to monitor overseas offsets programs in the most comparable countries and this information will be made available to offsets staff. Austrade will continue to assist DITAC in this task.

Notification Procedures

Recommendation 6 (paragraph 3.24 of Report 305)

The Committee recommends that notification procedures in respect of purchases anticipated to be subject to offsets be incorporated into Procurement Guidelines at an early date.

Response by DAS

25. The need to restate the procedures required for the notification of prospective offset obligations is accepted. However, CPGs are not the appropriate documents for this purpose. CPGs are largely advisory documents on sound practice rather than directives on procedures.

26. Notification procedures are more appropriately matters for directives by the Ministers for Defence and Industry, Technology and Commerce as the Ministers responsible for offsets.

27. DAS and DITAC will continue to inform the purchasing community of policy changes and other important developments in civil offsets through Commonwealth Procurement Circulars (CPCs). A CPC on offsets administration in terms agreed with the Departments of Defence and Industry, Technology and Commerce was issued by DAS in April 1990. Additional circulars could be issued if there are any future changes to the Program. Further, when CPGs are next revised, appropriate references to offsets will be included in any relevant checklist on planning or other issues.

Recommendation 7 (paragraph 3.24 of Report 305)

The Committee recommends that a Ministerial directive be issued to all purchasing authorities subject to the Offsets Program, stipulating provision of quarterly returns, to the Department of Industry, Technology and Commerce detailing all purchases, leases and hire arrangements in respect of overseas-sourced goods or services, and the imported component thereof.

Response by DITAC and DAS

28. This recommendation is accepted in principle. The need for a Ministerial directive is acknowledged. The Minister for Industry, Technology and Commerce will write to his Ministerial colleagues requesting that they issue a directive to their respective Departments. However, the precise nature of such a directive is to be determined following further consultation with agencies subject to the Program.

Accumulated Orders

Recommendation 8 (paragraph 3.37 of Report 305)

The Committee recommends that offsets authorities investigate means whereby all overseas suppliers are formally placed on notice of their potential offsets obligation prior to incurring such an obligation.

Response by the Departments of Administrative Services, Defence and Industry, Technology and Commerce

29. This recommendation is accepted. The Department of Defence includes in all procurement requests of a size which should attract offsets, reference to the Defence Offsets Guidelines. For a tender to be compliant, the tenderer must indicate that the program requirements will be met, and provide details of proposed activities and their value to discharge their offsets obligations. Any resultant contract specifies the manner in which the offset obligation is to be met.

30. DAS and DITAC support this selective approach to notification of suppliers. In relation to civil offsets, DITAC has worked with DAS in the preparation of CPC 90/3, entitled "Offsets Policy and Procedures for Purchasing Officers", to have appropriate offsets clauses included in all procurement requests of a size which should attract offsets; these clauses explain the basis of offsets obligations to overseas suppliers.

Recommendation 9 (paragraph 3.37 of Report 305)

The Committee recommends that the cost effectiveness of applying offsets to accumulated orders be assessed by the Departments of Industry, Technology and Commerce and Defence, and the results of that assessment be reported in the Finance Minute.

Response by DITAC and DAS

31. This recommendation is accepted in principle. The accumulation of small orders is an integral part of the Australian Civil Offsets Agreement (ACOA). As the implementation of the ACOA into new areas of State purchasing is likely to involve purchases of small amounts, DITAC, in the context of the Government Offsets and Procurement Advisory Committee (GOPAC), will be further considering this issue in 1990.

32. One of the issues to be addressed will be whether (and in which product groups) a minimum order size might be established to exclude small orders where they are unlikely to offer significant offsets potential. These levels will be determined after consultation with GOPAC following consideration of a consultancy study on government purchases of scientific and medical goods. This study is due to be completed in July 1990.

33. If policy changes are recommended as a result of the consultation with GOPAC, they will then be brought to the attention of State and Commonwealth Ministers. As the results of this study will not be available until after the Finance Minute deadline, it is not possible to include them in this context, but the Committee will be informed of the outcome.

Response by the Department of Defence

34. This recommendation is accepted. The Department of Defence seeks offsets against accumulated orders where these are likely to exceed the offsets threshold in a single financial year. Defence, as both a customer and as a purchasing authority, undertakes this activity routinely and has no reason to believe it is not cost effective in terms of the labour expended by the Department and the value of the offsets obligations secured. Firms which fall into this category are encouraged to enter into Offset Credit Deeds so that long term programs can be established.

35. If a more detailed quantitative assessment is required, this could perhaps be undertaken as part of a longer term activity (for example, the review nominated in Recommendation 38) and the result provided to the Committee.

Compliance by Overseas Companies - Outstanding Obligations

Recommendation 10 (paragraph 3.54 of Report 305)

The Committee recommends that the Department of Industry, Technology and Commerce proceed with reconciliations of offsets status with overseas suppliers, as a matter of priority.

Response by DITAC

36. This recommendation is accepted. The offsets status for all major suppliers has been reconciled. Work is progressing on the small number of remaining suppliers. As at 30 March 1990, the offsets status of only four companies remained unreconciled.

Recommendation 11 (paragraph 3.54 of Report 305)

The Committee recommends that urgent action be taken by the Department of Industry, Technology and Commerce to facilitate the regular production of statistics of 'aged' offsets obligations outstanding.

Response by DITAC

37. This recommendation is accepted. DITAC agrees that the regular monitoring of outstanding offsets obligations is necessary for sound administration. The information available via this monitoring process will be published in aggregate form in the Annual Report of the Civil Offsets Program.

Recommendation 12 (paragraph 3.54 of Report 305)

The Committee recommends that the annual report on the Offsets Program incorporate details of total outstanding offsets obligations by year to which those outstanding obligations relate.

Response by DITAC

38. This recommendation is accepted. Totals of outstanding offsets obligations by year to which they relate will be published in the Annual Report of the Offsets Program.

Response by the Department of Defence

39. This recommendation is accepted. The Department of Defence already supplies this information in its Departmental Annual Report.

Achievement of Targets under Partnerships for Development

Recommendation 13 (paragraph 3.64 of Report 305)

The Committee recommends that action be taken to ensure that independent audits of partnership activities of all participating companies be undertaken prior to 30 June 1990 and that subsequent audits be undertaken promptly upon completion of review periods.

Response by DITAC

40. This recommendation is accepted in principle. DITAC agrees that the performance of Partnership for Development companies needs to be independently audited to ensure compliance. However, it will not be possible to audit all participating companies by 30 June 1990 as five companies will not have completed the first year of their programs by then. It is planned that all companies that have completed at least one full year of their program will have been audited by 31 December 1990.

41. The current arrangement provides for periodic audits focusing on particular aspects of the Partners' work programs and for each Partner to be audited at least once every two years with the possibility of more frequent audits, if judged necessary.

Recommendation 14 (paragraph 3.64 of Report 305)

The Committee recommends that summaries of all such audit reports be published in the Annual Report on the Offsets Program.

Response by DITAC

42. This recommendation is accepted.

Penalties

Recommendation 15 (paragraph 3.87 of Report 305)

The Committee recommends that the Attorney-General's Department and the Department of Industry, Technology and Commerce investigate means whereby offsets arrangements give rise to legally enforceable obligations secured by way of liquidated damages.

**Response by the Attorney-General's Department and
DITAC**

43. The requirements of the Australian Civil Offsets Program are imposed upon suppliers in the form of separate deeds entered into between the Commonwealth and each supplier. It is current practice that agreements are expressed in terms of binding contractual obligations between the parties and, as such, they are intended to be enforceable before the courts. Each deed requires compliance with the requirements of the Offsets Program and contains specifics of the offsets obligations which the particular supplier is required to discharge.

44. Under the normal law, where a party breaches a binding agreement, the party not at fault can usually establish a loss which the courts are prepared to compensate by an order for damages against the party at fault.

45. Liquidated damages clauses have the advantage of recording the parties' decision as to an enforceable amount of damages which may be payable in the case of breach of agreement. The courts will only enforce the terms of such clauses where it is shown that they represent a genuine attempt by the parties to arrive at a pre-estimate of loss which may be suffered in a case of breach of agreement. Where a court determines that that was not the case, it may decide that the clause represents an attempt by one party to impose a penalty on the other party and that, as such, the clause is not enforceable.

46. The Attorney-General's Department has provided legal advice to DITAC to the effect that, in any case of non-compliance in the discharge of a civil offsets obligation, it may be difficult for the Commonwealth to establish before a court that it (as opposed to the nation as a whole) has suffered a compensatable loss. In these circumstances, the Commonwealth's position may not be enhanced by the inclusion of a liquidated damages clause in an agreement used to secure a civil offsets obligation.

47. This situation under the Civil Offsets Program is contrasted against the situation under the Defence Offsets Program. Under the latter Program, the nature of the offsets activities required to be discharged by a supplier are normally much more closely related to the requirements of the procurement contract and, accordingly, any failure to discharge any part of the obligation will result in a much more direct loss being suffered by the Commonwealth.

Enforceability of Partnerships for Development Agreements

Recommendation 16 (paragraph 3.91 of Report 305)

The Committee recommends that details of agreed offsets status at the time of signing be incorporated into Partnerships for Development Agreements.

Response by DITAC

48. This recommendation is accepted. Details of agreed offsets status at the time of signing were first incorporated in Partnership for Development Agreements in February 1989 and have been a standard clause for all Agreements for which negotiations commenced after that date.

Recommendation 17 (paragraph 3.91 of Report 305)

The Committee recommends that clauses referring to maintenance of a sound economic and business environment in Australia be excluded from all future Partnerships for Development Agreements.

Response by DITAC

49. This recommendation is accepted. This clause has not been included in Agreements signed after February 1989, except in relation to one Agreement where negotiations had been finalised before that date.

Recommendation 18 (paragraph 3.91 of Report 305)

The Committee recommends that the Attorney-General's Department and the Department of Industry, Technology and Commerce investigate means whereby Partnerships for Development Agreements are legally enforceable and contain penalty or damages clauses.

Response by DITAC

50. This recommendation is not accepted. The Partnerships for Development Program is a mutually beneficial relationship entered into voluntarily between transnational companies and the Federal and State Governments. The Program encourages transnationals to make long term investment in Australian capability based on sound commercial reasons rather than short term investments to meet the immediate demands of Government.

51. In the event of default, a company's normal offsets obligation would be re-activated. Legally enforceable obligations with penalty or damages clauses would thus be contrary to the spirit of the Program and, in any event, given that the re-activation of offsets obligations is the ultimate discipline, the considerations canvassed in the response to Recommendation 15 apply.

Response by the Attorney-General's Department

52. The Attorney-General's Department has provided legal advice on a number of occasions in relation to the matter of Partnership for Development Agreements, and is happy to assist DITAC further in relation to these documents. However, DITAC has advised that the Partnership for Development arrangements are based upon the understanding that if the (non-Commonwealth) partner is at any time in default, they will be required to enter into an offsets deed in the normal way.

Consistency between the two Administering Departments

Recommendation 19 (paragraph 4.14 of Report 305)

The Committee recommends that the Departments of Industry, Technology and Commerce and Defence take steps to increase the degree of consistency in respect of the discharge of offsets obligations by overseas suppliers whether they arise from civil or defence purchases.

Response by DITAC

53. This recommendation is accepted. DITAC will work to ensure greater consistency in the discharge of offsets obligations by overseas suppliers commensurate with the differing objectives of the two Programs. This will be pursued by maintaining formal and informal liaison at all levels of offsets administration. In this regard, the two Departments have agreed to hold half-day workshops, at six-monthly intervals, between respective operating areas. This complements the more formal liaison held under the auspices of GOPAC and the Defence Industry Committee.

54. There is a small number of large overseas companies that may incur significant obligations in both the Civil and Defence Offsets Programs. The Departments of Defence and Industry, Technology and Commerce have developed a joint agreement that will be used in future to allow these companies to undertake approved offsets activities in Australia to acquit civil and non project-related Defence offset obligations.

Response by the Department of Defence

55. This recommendation is accepted. The Defence and Civil Offsets Programs are subject to the same Government Offsets Policy. There is continuing liaison on an informal and formal basis between the Departments of Industry, Technology and Commerce and Defence at working and senior management level on matters relating to offsets administration. It is considered by Defence that there are no inconsistencies in administration, although there are two distinct Programs.

56. There is a small number of large overseas companies that may incur significant obligations in both the Civil and Defence Offsets Programs. The Departments of Defence and Industry, Technology and Commerce have developed a joint agreement that will be used in future to allow these companies to undertake approved offsets activities in Australia to acquit civil and non project-related Defence offset obligations. Project-related offsets can only be discharged by activities which relate directly to the project for which the goods or services are being purchased.

Recommendation 20 (paragraph 4.14 of Report 305)

The Committee recommends that the Departments of Defence and Industry, Technology and Commerce co-operate in the production and issue of joint guidelines for the Program.

Response by the Department of Defence

57. In March 1986, joint guidelines were promulgated on the basis that they would be reviewed after a period of working experience. That period of experience was completed and in 1987, the review was commenced. On 5 August 1987, the Interdepartmental Committee on Offsets agreed that there was sufficient difference in emphasis between the two Programs and the industry sectors involved to justify separate guidelines. These two sets of guidelines have now been promulgated after endorsement by the respective Ministers.

58. While the guidelines are separate documents, there is continuing consultation between the Departments to ensure that the Government's policy and its application is consistent.

Response by DITAC

59. This recommendation is not accepted. The general policy aims of the Offsets Program are to raise the productive capability of Australian firms via access to advanced technologies, skills and larger overseas markets. There are further policy objectives for the Department of Defence.

60. In 1988, a revision of the guidelines for civil offsets was approved by the Minister for Industry, Technology and Commerce. These were designed to provide a stronger focus on the use of offsets as a policy instrument to assist the development of internationally competitive industry. In 1989, the Minister for Defence approved revised guidelines for defence offsets. These are aimed at further improving the administration and delivery of that program in terms of defence objectives.

61. Given that the two Programs have diverged, DITAC considers that a common set of guidelines is no longer appropriate nor feasible. However, to address the situation of companies with obligations in both the Civil and Defence Programs, DITAC and Defence have agreed on a joint offsets deed; the first of such deeds is expected to be signed by 30 June 1990.

Recommendation 21 (paragraph 4.17 of Report 305)

The Committee recommends that the Departments of Defence and Industry, Technology and Commerce collaborate on the joint production of a listing of overseas offsets obligors to be issued at the earliest opportunity.

Response by the Departments of Defence and Industry, Technology and Commerce

62. This matter has been referred to Ministers for decision and a response will be provided to the Committee when available.

Recommendation 22 (paragraph 4.25 of Report 305)

The Committee recommends that the Departments of Defence and Industry, Technology and Commerce produce a single comprehensive report on the Offsets Program.

Response by the Departments of Defence and Industry, Technology and Commerce

63. This matter has been referred to Ministers for decision and a response will be provided to the Committee when available.

The Necessity for two Commonwealth Offsets Authorities

Recommendation 23 (paragraph 4.34 of Report 305)

The Committee recommends that the Departments of Defence and Industry, Technology and Commerce examine the need or otherwise for the current dual administration of offsets, and in particular, investigate means whereby the administrative role can reside solely within the Department of Industry, Technology and Commerce whilst maintaining suitable links with defence industry policy.

Response by the Department of Defence

64. After considering the Inglis Report, the Government elected to maintain the two offsets authorities. The Department of Defence has put forward the reasons on several occasions.

65. Defence objectives are to develop that range of technologies and establish capabilities that contribute to the longer term needs of the Australian Defence Force. Defence is in a unique position as a purchaser, technical authority and offsets authority to obtain the best possible arrangements for offsets on a consistent basis appropriate to the long term support of the equipment used by the Australian Defence Force. In addition, the Offsets Program is only one of a number of mechanisms involved in achieving the overall industry defence objectives.

66. DITAC, on the other hand, is not a purchaser in its own right and has to work through other purchasing authorities to administer the Civil Offsets Program.

Response by DITAC

67. This recommendation is not accepted. The allocation of responsibility for the administration of the Offsets Programs is a matter for the Government to determine.

Consistency for Participants - Register of Precedents

Recommendation 24 (paragraph 4.45 of Report 305)

The Committee recommends that the results of decisions by the offsets authorities be documented in a comprehensive register of precedents and significant precedents published in the annual report on the Offsets Program.

Response by DITAC

68. This recommendation is accepted. DITAC maintains a register of significant precedents and this information will be published in a general form, taking account of confidentiality, in the Annual Report of the Civil Offsets Program.

Response by the Department of Defence

69. For each Defence project, the strategic industry objectives are determined on a case-by-case basis. Defence offsets resulting from the purchase of overseas equipment for the project are only one of a number of mechanisms which can be used to achieve part of these objectives.

70. As the emphasis for defence offsets is on establishing capabilities which are not currently available to support the equipment purchased and enhance Australia's self reliance, a register of precedents has little relevance to the Defence Offsets Program as compared to the Civil Offsets Program.

Exempt Organisation Status

Recommendation 25 (paragraph 4.55 of Report 305)

The Committee recommends that the Departments of Industry, Technology and Commerce and Defence report in the Finance Minute on the outcome of the GOPAC review of exempt organisations.

Response by DITAC

71. This recommendation is accepted. In summary, GOPAC considered that there were two minor inconsistencies in the list of exempt Commonwealth authorities:

- . Australian National Railways was not considered to comply with the criteria for exemption but GOPAC did not recommend any action; and
- . The Commonwealth Bank was seen to comply with the criteria for exemption but GOPAC noted that the States did not seek to exempt State banks. Since the Commonwealth and State Banks' procurement of imported products is mainly in the information technology area, and hence largely covered by Partnership agreements, GOPAC considered that it was not necessary to review the banks' exempt status.

72. On the more general question of exemption, GOPAC considered that appropriate Ministers should have the power to exempt Commonwealth agencies which supply goods and services in competition with the private sector.

Recommendation 26 (paragraph 4.55 of Report 305)

The Committee recommends that Guidelines for Participants include expanded documentation in relation to exempt offsets status addressing such matters as the approval process for the inclusion and deletion of organisations, and provide practical working definitions of such terms as 'major trading activities', 'competitive markets' and 'government bestowed protective advantage'.

Response by DITAC

73. This recommendation is not accepted. Nine Commonwealth organisations were determined by the Government to be exempt from the requirements of the offsets policy following the Report of the Inglis Review. Decisions as to which authorities qualify for exemption are a matter for the Government of the day.

Consistency within Administering Departments - Procedures Manual

Recommendation 27 (paragraph 4.59 of Report 305)

The Committee recommends that the procedures manual for staff of the civil offsets authority, which was first recommended by the Inglis Committee and again by the Public Accounts Committee in its Report 270, be completed forthwith.

Response by DITAC

74. This recommendation is accepted. The Procedures Manual has been revised and re-issued, and a copy has been forwarded separately to the Committee.

Security

Recommendation 28 (paragraph 4.68 of Report 305)

The Committee recommends that the Departments of Defence and Industry, Technology and Commerce pursue methods whereby purchasing and offsets authorities are made aware of, wherever possible, any criminal convictions of overseas companies with which they have, or intend to have, dealings.

Response by the Department of Defence

75. This recommendation is accepted. Within the Department of Defence, the Inspector-General undertakes this activity as part of his normal functions.

Response by DITAC

76. This recommendation is accepted in principle. DITAC is seeking advice from the Attorney-General's Department as to ways in which this recommendation could be put into effect.

77. DAS has no objection to this recommendation but is concerned about the practicality of considering special action against companies on the basis of criminal convictions overseas. For example, consideration needs to be given to the application of privacy laws in the collection of information.

Recommendation 29 (paragraph 4.68 of Report 305)

The Committee recommends that, in addition to those matters identified in Report 270, the manuals for both offsets authorities should:

- detail procedures to be followed upon notification of an offsets officer's impending resignation to take up employment in the private sector; and

- prescribe procedures to be followed upon awareness of a successful prosecution against an overseas company participating in the Offsets Program.

Response by DITAC

78. This recommendation is accepted. Such procedures have been incorporated into the Procedures Manual.

Response by the Department of Defence

79. Both parts of the recommendation are accepted. The Department of Defence has two instructions dealing with the matter of post separation employment, namely:

- (a) Guidelines on the Acceptance of Other Employment on Retirement or Resignation from the Public Service; and
- (b) DIG-PERS 25-1 titled "Public Duty and Private Interest - Guidelines for Members of the Australian Defence Force". This instruction covers military personnel.

80. The Minister for Defence has approved a Fraud Control Plan which is being implemented through the Inspector-General, who is developing procedures to meet the requirements of the Plan and the concerns of the Committee.

Evaluation and Valuation of Offsets Proposals

Recommendation 30 (paragraph 5.24 of Report 305)

The Committee recommends that the offsets authorities reconsider the Committee's recommendation to value transfer of technology based solely on valuation of exports, except where defence objectives of self-reliance dictate otherwise.

Response by DITAC

81. This recommendation is not accepted. The Minister for Industry, Technology and Commerce has reaffirmed the Government's policy that technology transfer will principally attract credits as it is taken up in Australian industry.

82. In theory, it is possible to conceive of additional exports resulting from technology transfer. However, DITAC considers that it is extremely difficult to split export flows associated with offsets activities into component parts attributable to technology transferred and other project-related inputs such as training, capital, corporate connections and so on.

83. DITAC feels that the most practical way of addressing this issue is to place a separate value on the technology transferred (see the response to Recommendation 31), and to ensure that this technology value is deducted from the value of subsequent exports before any export related offsets credits are granted.

84. A related problem concerns the time delays in generating exports. Sometimes exports commence well after the transfer of technology. To delay recognition of the transfer could, from the supplier's viewpoint, seriously reduce the appeal of discharging offsets obligations in this manner. This may result in less technology transfer to Australian industry.

Response by the Department of Defence

85. The Defence valuation of technology transfer is based primarily on the strategic benefits and savings to Defence of having the technology "in-country" to support the equipment, to which the technology relates, throughout its service life. The Department of Defence's offsets guidelines describe this and Defence believes that this is consistent with the second part of the Committee's recommendation.

Recommendation 31 (paragraph 5.24 of Report 305)

The Committee recommends that a permanent panel of independent experts in appropriate fields be established to assist the Department of Industry, Technology and Commerce in evaluating and valuing offsets proposals.

Response by DITAC

86. This recommendation is not accepted. DITAC recognises that, on occasions, it is inappropriate to accept valuations put by either overseas or local companies. In such cases, DITAC seeks expert advice from external sources on relevant commercial and technical aspects. The Committee's intent that external advice be sought on offsets proposals has been specified in the offsets procedures manual and will be incorporated in future guidelines.

87. Factors weighing against the formation of a permanent panel include the wide range of issues which might be raised, the limited pool of expertise in Australia on specific subject areas and the consequent conflicts of interest which could arise.

88. DITAC intends to review the effectiveness of its arrangements for obtaining advice from external sources after completion of the second stage of the Bureau of Industry Economics' (BIE's) review of the Offsets Program which is scheduled to commence later this year.

Recommendation 32 (paragraph 5.24 of Report 305)

The Committee recommends that all civil offsets proposals entailing difficult measurement or subjective judgement be referred to that permanent panel for approval, and the requirement to do so be specified in the guidelines and procedures manual.

Response by DITAC

89. This recommendation is not accepted for the reasons given in the response to Recommendation 31. Indeed, DITAC would not be able to cede the power of approval to a permanent panel. Under the Australian Civil Offsets Agreement, this power resides with the relevant State or Commonwealth Offsets Authority.

Evaluation of the Offsets Policy

Recommendation 33 (paragraph 6.10 of Report 305)

The Committee recommends that annual report disclosure on matters pertaining to defence offsets be expanded to encompass relevant statistical data necessary to facilitate a meaningful assessment of the Program's status, achievements, problems and prospects.

Response by the Department of Defence

90. This recommendation is accepted. The Department is examining a number of options for the presentation of statistical data on the Defence Offsets Program for inclusion in the Departmental Annual Report, in a summary form to provide an overview of the Program. An indicative summary of matters for possible inclusion was submitted to the Committee under cover of a letter from Defence (reference ASEIP 602/89 dated 22 June 1989).

91. However, as indicated in the response to Recommendation 2, Defence is required to respect the commercial sensitivity of information on individual companies and, as indicated by the Secretary of the Department in evidence to the Committee (page 881), Defence must maintain a balance between the amount of exposure given to the Defence Offsets Program in the Departmental Annual Report compared to that given to other programs covered by the total defence outlay.

Recommendation 34 (paragraph 6.21 of Report 305)

The Committee recommends that, if a notional value of technology is given at the time of technology transfer, that valuation should be discounted if the transfer is to a subsidiary or otherwise associated company of the overseas company.

Response by DITAC

92. This recommendation is not accepted. DITAC notes that the present Government policy, as recently confirmed by the Minister for Industry, Technology and Commerce, does not discriminate against foreign-owned companies, but actively encourages international activity in Australia. Adoption of this recommendation would therefore be biased against subsidiaries of overseas companies and contrary to that policy.

93. DITAC acknowledges and supports the views expressed in the Committee's 305th Report regarding retaining intellectual property developed in Australia. As the Committee noted, the civil guidelines require that any commercially viable results of research and development undertaken under the Offsets Program are exploited for the benefit of Australia. In any event, making distinction on the basis of ownership is pointless given that a significant element of technology transfer is captured in the skill and knowledge of individuals who, over time, are very mobile.

Response by the Department of Defence

94. Discrimination between firms on the basis of ownership of the Australian-based entity which receives the technology is not an issue on which Defence can properly make judgements. Such discrimination is not permitted under other purchasing guidelines. Under the provisions of the Australian Ownership and Control of Information, Defence does have control in relation to some highly sensitive Australian-developed technology being released to companies having foreign ownership.

95. In conjunction with the Australian Government Solicitor, Defence has developed the following definition of "Australian Industry" to meet the needs of the Defence Offsets Program. This is the only criterion applied:

"Australian industry" means "industry carried on in Australia by:

- (a) a company or association incorporated under the laws of a State or Territory of the Commonwealth;
- (b) a natural person;
- (c) an undertaking set up pursuant to regulations made under the Supply and Development Act 1939; or
- (d) such other organisation acceptable to the Australian Industry Involvement Authority, being industry, whether carried on alone, in partnership or under a joint venture agreement, that contributes to the establishment, enhancement or maintenance of defence capabilities within Australia which, without limiting its generality, include capabilities for the maintenance and adaptation of military equipment, the provision of munitions, spares and other consumable stores and the development of

technologies and supply and support capabilities (including design, development and manufacturing support) that meet the long-term need for self-reliance of the Australian Defence Forces."

Recommendation 35 (paragraph 6.38 of Report 305)

The Committee recommends that the NOMIS database enhancements be completed at an early date to enable adoption of the recommendations of the Bureau of Industry Economics.

Response by DITAC

96. This recommendation is accepted.

Recommendation 36 (paragraph 6.38 of Report 305)

The Committee recommends that the Department of Defence report in the Finance Minute on the progress of improvements to its offsets database and that those improvements take into account the recommendations of the Bureau of Industry Economics in relation to the Department of Industry, Technology and Commerce database.

Response by the Department of Defence

97. This recommendation is accepted. The implementation of the improvements to the Department of Defence offsets database is now complete and the updating of data is being undertaken on an ongoing basis.

98. Regarding the recommendations of the BIE in relation to DITAC's database, Defence generally conforms to the BIE's recommendations, with the following exceptions:

- The details of final prices, payment and delivery dates for the contract are held as a separate database. However, the offsets database contains information on claim and approval dates, the value of offsets claimed and approval after verification. Claims are only accepted after completion of the activity.
- The database contains information on Australian beneficiaries but not on their sub-contractors.
- The Industry Capability database (DRB 29) is an integral part of the offsets database and contains, among other things, information on industry, size and type of workforce and ownership of Australian beneficiaries. However, it does not contain information on turnover or proportion devoted to offsets or export performance as suggested by the BIE. To include this information would need re-development of the database and significant resources in data acquisition and inputting with the system, and this would not appear to be warranted at this stage.

Recommendation 37 (paragraph 6.38 of Report 305)

The Committee recommends that the Department of Defence report in the Finance Minute on the results of its survey as it specifically relates to the Offsets Program.

Response by the Department of Defence

99. This recommendation is accepted. The survey covers a number of areas of interaction between the Department and industry, and has been designed to provide a comprehensive picture of the relationship between the Australian Defence Force and the Department and industry. One aspect of this survey covers the industry involvement with the Defence Offsets Program.

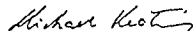
100. Responses to the questionnaire are being received and analysis of the data has commenced. It is predicted that it will be August/September 1990 before meaningful conclusions can be produced regarding the Defence Offsets Program aspects of the survey. When the results are available, a copy will be forwarded to the Committee for its information.

Recommendation 38 (paragraph 6.38 of Report 305)

The Committee recommends that, at the earliest opportunity, an independent full scale assessment be undertaken of the national significance of the offsets policy, in particular to identify and quantify all policy implementation costs, and assess the success or otherwise in meeting both its civil and defence objectives.

Response by the Departments of Defence, Treasury and Industry, Technology and Commerce

101. This recommendation is a matter for Government decision. The BIE is scheduled to commence the second stage of its major review of the Offsets Program later this year. The Government will also consider whether the assessment of the Offsets Program should be included in the Industry Commission's work program for 1990-91.


M.S. KEATING
SECRETARY
Department of Finance
7 June 1990