

STATES OF JERSEY

COMMITTEE OF INQUIRY INTO TENDER PROCESS AND AWARD OF BUS SERVICE CONTRACT

BLAMPIED ROOM, STATES BUILDING

Committee: Mr Huw Shephard (President)
 Mr Christopher Blackstone (Member)
 Mr Trevor Garrett (Member)

In attendance Mr Mac Spence (Committee Clerk)

EVIDENCE FROM:

MR N. DAVIES
(Halcrow Group)

on

Tuesday, 25th January 2005

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MR SHEPHEARD: Ladies and gentlemen, good afternoon. The Committee of Inquiry into the bus tendering process is now reassembled to commence its work this afternoon and the witness here with us is Mr Neil Davies of Halcrow. Mr Davies, I think you are aware that the Committee is taking evidence on oath.

MR DAVIES: Yes.

MR SHEPHEARD: I will therefore proceed to administer that oath to you.

The witness was sworn

MR SHEPHEARD: Thank you, Mr Davies. All the members of the Panel will probably be asking you questions in the course of the afternoon, but my colleague, Mr Blackstone, will begin.

MR BLACKSTONE: Good afternoon, Mr Davies.

MR DAVIES: Good afternoon.

MR BLACKSTONE: Apart from yourself, Mr Macklin and Mr Childs, were there any other Halcrow personnel involved in the Jersey bus tendering process 2001/2002?

MR DAVIES: It would only have been on an administrative basis and also the technical work.

MR BLACKSTONE: So you were the only three that actually dealt with officials ----

MR DAVIES: That's correct, yes.

MR BLACKSTONE: ---- in Jersey. Of the three of you, was anyone in overall charge, or did you have equal responsibilities?

MR DAVIES: Roger Childs was the project director.

MR BLACKSTONE: Right.

MR DAVIES: And he had the largest involvement on the project.

MR BLACKSTONE: And Mr Macklin did a number of the interviews with the tenderers. Were you directly involved in any of that process?

MR DAVIES: No. I was only ... no, not the post clarification process, no.

MR BLACKSTONE: What was your particular involvement?

MR DAVIES: It was dealing with the production of the tender documents, administering the tendering process and that was basically it for sort of that period of the work.

MR BLACKSTONE: What is your professional background, legal or transportation or?

MR DAVIES: My first degree is Civil Engineering and then a Transport Planning Masters and straight from university to working with Halcrow, so transport planning.

MR BLACKSTONE: And the tender documents were drawn up off your own initiative, or was there help from people at Public Services here?

MR DAVIES: There were various elements of the documents. Some were produced by ourselves, but everything was seen by the States for their approval. We didn't send anything out, so no main documents went out, without going through PSC first -- sorry, PSD first.

MR BLACKSTONE: And you said you were the prime person involved in the preparation of documents?

MR DAVIES: Um, jointly with Roger Childs. We both work in the Birmingham office.

MR BLACKSTONE: But you are both transport people and not legal people?

MR DAVIES: No, not legal people at all.

MR BLACKSTONE: There is usually some cross-fertilisation with the legal.

MR DAVIES: Yes.

MR BLACKSTONE: Who engaged Halcrow for this assignment?

MR DAVIES: To be honest, I'm not actually sure, but I understand it was Alan Muir from previous work we'd done on Jersey for the PSD several years previously.

MR BLACKSTONE: Presumably you have got a letter of engagement or terms of reference or some form of engagement document?

MR DAVIES: To be honest, I don't know. Roger dealt with it as the project director.

MR BLACKSTONE: When did Halcrow first work on the Jersey bus assignment?

MR DAVIES: Um, it would be mid-2001. I don't know when exactly we started.

MR BLACKSTONE: You are quite sure of that?

MR DAVIES: On the Bus Strategy, as far as I am aware, it is 2001. It may be earlier, but I wasn't involved with the project at that stage.

MR BLACKSTONE: You are quite sure of that?

MR DAVIES: I don't know the dates. Roger Childs was involved in the early stages of the

project.

MR BLACKSTONE: But you weren't involved at any stage before 2001?

MR DAVIES: No.

MR BLACKSTONE: And you don't know of any documentation ----

MR DAVIES: No.

MR BLACKSTONE: ---- pre-2001, even though you were the one who was doing the documentation?

MR DAVIES: I was doing the documentation for the tendering process itself.

MR BLACKSTONE: Yes.

MR DAVIES: Not for the project as a whole.

MR BLACKSTONE: I see, right. **(Pause)** Did you come to Jersey at all yourself, or was all your work in documentation back in Birmingham?

MR DAVIES: No. I came over to Jersey summer 2001 just so that we could have a working knowledge of the existing bus operations, the network, so that we were able to inform ourselves for the tendering process. Should questions arise or whatever, we had a working knowledge of the network.

MR BLACKSTONE: Summer 2001, being what, May, June, July, August?

MR DAVIES: June or July.

MR BLACKSTONE: And you travelled around on the buses and met Jersey and met PSC and --
--

MR DAVIES: No, I was just over riding on the buses and driving around in a hire car checking out all points of the network. I had no direct contact with the States at that time, as far as I can remember.

MR BLACKSTONE: So neither then nor later did you meet anybody from the Public Services Committee or Public Services Department?

MR DAVIES: I have met members of staff, yes, Mike Collier, Alan Muir and John Richardson.

MR BLACKSTONE: When was that?

MR DAVIES: Um, at various stages during the process.

MR BLACKSTONE: When they came over to your base or?

MR DAVIES: And on other occasions when we've been back to them.

MR BLACKSTONE: You came back to Jersey again, did you?

MR DAVIES: Subsequently for different aspects of the work.

MR BLACKSTONE: Right. I believe Mr Childs was also involved in the negotiations with Jersey Bus for the final year's subsidy.

MR DAVIES: That's correct.

MR BLACKSTONE: Were you involved in that process at all?

MR DAVIES: No, no.

MR BLACKSTONE: Now, there is an email you sent to Alan Muir on 13th November 2001, saying "*Additionally, I am posting a copy of the accounts for each submission to you, to be examined by your legal department. Neither Roger, Roger nor myself have an in-depth knowledge of auditing accounts, so feel it is best performed by yourselves.*" Do you remember that?

MR DAVIES: Um, I'm aware of the stage of the process that that would happen, but ...

MR BLACKSTONE: Surely, when you say you are looking for an audit of accounts, this would go to the accounting department rather than the legal department?

MR DAVIES: Um, as consultant engineers, our accounting department is for running the business. We don't have a consultancy ----

MR BLACKSTONE: No, in the States, you see.

MR DAVIES: Oh, I have no idea where it had gone, yes, certainly in the States, for them to deal with.

MR BLACKSTONE: Now, the three of you who were involved in the Jersey bus contract had no in-depth knowledge of accounts. Surely, in the tenders, particularly the non-compliant tenders, there was quite a lot of accounting and detail in there, was there not?

MR DAVIES: I don't know. I wasn't involved in the appraisal of the tenders.

MR BLACKSTONE: But you do confirm that none of you had any detailed accounting experience?

MR DAVIES: We're not accountants, no. My understanding was that the submission of accounts was to check the financial standing of the companies, which is something that an auditor would do.

MR BLACKSTONE: It was eventually done by a chap called Mr Winston from FourSight. Did you see his report?

MR DAVIES: Er, I don't think so.

MR BLACKSTONE: In a tender of this type, I believe one of the three of you said it was usual to allow the incumbent operator the benefit of the doubt to about 5% to 10% of contract price.

MR DAVIES: That's not common. My understanding is that, for existing operators where a contract has operated previously, there may be a statement that that may be taken into consideration, but that was not considered applicable for the first letter of this contract. That was not something that we said to anybody at any stage, that that would be done.

MR BLACKSTONE: I will have to check that reference back. Are you saying it does happen sometimes, because obviously the incumbent has specialist knowledge?

MR DAVIES: It can do, but normally that would happen at the end of, if, for example, in the UK a county council issues a tender for a bus service, if they then put it up for retender, the county may have previously stated that that may happen, but in the first letter of contract, because there is no one else operating that contract in that form, there is no one who has previous knowledge of that contract on that basis.

MR BLACKSTONE: But there was here previous knowledge here of operating buses in Jersey. It is a rather specialist market.

MR DAVIES: The decision was taken that, on this new contract, the basis we would take is the tender prices.

MR BLACKSTONE: Who took that decision?

MR DAVIES: I don't know.

MR BLACKSTONE: Presumably you consulted with Mr Childs and Mr Macklin over the tender process and you still weren't aware ----

MR DAVIES: I had nothing to do with the evaluation of the tenders. I was just dealing with

the administration.

MR BLACKSTONE: Halcrow continued to work with PSD after the date in May 2002 when the contract ... when the preferred operator was chosen?

MR DAVIES: Yes.

MR BLACKSTONE: And I think you were involved in preparing the contract with Connex?

MR DAVIES: Not ... we submitted the first draft contract and subsequent amendments. Beyond that, my understanding is that we had no further involvement. As I say, we normally ----

MR BLACKSTONE: The first draft contract ----

MR DAVIES: Was the one that was sent out with the tender packs, which was subsequently amended following comments from the, I think it was, Solicitor General here. But then we had nothing else to do with it.

MR BLACKSTONE: You are quite certain about that?

MR DAVIES: I am fairly certain we had nothing else to do with it.

MR BLACKSTONE: Mr Childs or Mr Macklin couldn't possibly have had it without your knowledge, couldn't have done further work with it?

MR DAVIES: I wouldn't have thought so, no. **(Pause)**

MR BLACKSTONE: Did you study the tender documents? You said you were responsible largely for preparing the tender documents, so you would know what was in them.

MR DAVIES: At the time I had a fair knowledge of what was in the documents. The actual conditions of contract themselves were drawn up by Roger Macklin in the first instance before they were sent to the States for verification in consultation with Roger Childs. As I said previously, all documents were submitted to PSD for approval.

MR BLACKSTONE: Hmm. "*Conditions of Contract For Local Bus Services*", is this the one you are talking about, is it?

MR DAVIES: That is the revised version following the comments from the Solicitor General. **(Pause)**

MR BLACKSTONE: In there, it states "*The contractor to inform himself fully. The contractor shall satisfy himself that the information, including documentation provided by the States, is*

adequate and will not prejudice the performance of any of the contractor's obligations under the contract. The contractor should inform the States immediately of any inadequacy, whereupon the States shall make good the inadequacy to the reasonable satisfaction of the contractor. The contractor shall be deemed to examine the requirements specified and these conditions. No claim from the contractor for additional payment will be allowed on the grounds of misinterpretation of any matter relating to the requirements specified in these or these conditions on which the contractor could reasonably have satisfied himself. ” You are fully aware of that?

The contractor, you get your own information and there is no come back?

MR DAVIES: That is a standard term of a contract in other contracts in the UK, yes.

MR BLACKSTONE: Were you involved in the preparation of *Bulletins 1 and 2* sent to the tenderers?

MR DAVIES: I was, yes.

MR BLACKSTONE: So you have seen the TGWU 2002 wage claim?

MR DAVIES: Yes.

MR BLACKSTONE: And you confirm that that was issued to all tenderers?

MR DAVIES: It was, yes.

MR BLACKSTONE: And it was also sent to PSD here?

MR DAVIES: It was, yes.

MR BLACKSTONE: How and by whom?

MR DAVIES: It was ... because of the timing of the fax, the tendering process closed on 18th February and we received the fax on 12th February and, therefore, it was getting quite close to the end of the period for which bidders were to prepare their bids. The fax came in. We then turned it around within the same day. It was sent out to all bidders by being scanned on an email as an attachment and also by letter in the evening. The fax was also posted across to PSD.

MR BLACKSTONE: The fax was posted or faxed?

MR DAVIES: Er, the fax was posted. It was part of just mailing everything out. There was just another copy done and that was in the post to PSD

MR BLACKSTONE: No email was sent to PSD?

MR DAVIES: Er, not that I can remember, no.

MR BLACKSTONE: Do you have an outwards mail book to confirm the date that that letter was sent?

MR DAVIES: Yes, it was sent with the others on 12th February.

MR BLACKSTONE: Do you have documentation to show that? Was there a covering letter?

MR DAVIES: Um, it wasn't a covering letter because it was done in such a hurry. It was simply sent with a compliments slip for Alan Muir's attention, but, because the post was due to go out ----

MR BLACKSTONE: So, on 12th February, mailed for Alan Muir's attention was the TGWU claim?

MR DAVIES: Yes.

MR BLACKSTONE: Did you receive any confirmation from Mr Muir that he received that?

MR DAVIES: No, but then we haven't for other documents, unless we were specifically discussing a certain aspect of any document. **(Pause)**

MR BLACKSTONE: And did you yourself see the tender documents as they were submitted by the various tenderers?

MR DAVIES: No.

MR BLACKSTONE: I will just read to you from the Connex tender: "*Included in our costs is the assumption that the wage claim of the present Jersey staff is met in full. We would be prepared to discuss a reduction in the staff cost directly applicable to the present staff should the claim be settled at a lower level.*" Then also, in a different clause: "*Wage costs include the payment in full of the 2002 wage award.*" Would that, to you, seem as if Connex were not only fully aware of the wage claim but also included it in the tender?

MR DAVIES: That's the first time I've heard that, so I haven't seen any of the documents. I would ----

MR BLACKSTONE: But you say Connex did receive by fax on 12th February the TGWU letter?

MR DAVIES: They received the TGWU letter and we provided no advice as to what to

include. It is up to the bidders to decide how much of the claim to include. That was purely their decision that they took and nobody ----

MR BLACKSTONE: I think these matters were confirmed by Mr Macklin at meetings, but we will deal with that with him.

MR DAVIES: Yes.

MR BLACKSTONE: In view of what I have said, and assuming that that text did appear in Halcrow's (sic) tender, do you think the States of Jersey have got any need to make an additional payment to them on account of the shift allowance award?

MR DAVIES: I don't know what was said during the tender clarification process. At the time, it was seen that that was a ... the document from TGWU was submitted as a negotiating start point and it was therefore up to the bidder to decide what to include. As ----

MR BLACKSTONE: I just read to you what Connex put in their contract. You may accept that that is there.

MR DAVIES: I mean, if that is the text they put in, I don't know on what basis they accepted the word "*fully*". There was a feeling that the shift allowance was a very unusual element of a wage claim that does not normally occur as part of a negotiation process, um, and Connex may have decided that, in their case, the "*fully*" was the standard salary uplift as part of the annual (or whatever the period was) percent pay rise.

MR BLACKSTONE: No, Mr Davies, what they say I will read to you again: "*Included in our costs is the assumption that the wage claim of the present Jersey staff is met in full*" -- Jersey Bus staff "*is met in full*". There were two elements of that wage claim: one was a 4.5 across the board and the other was the shift allowance. "*Met in full*", what does that mean?

MR DAVIES: If that is what Connex meant, then ----

MR BLACKSTONE: That was in their contract. What else could it mean?

MR DAVIES: I don't know. If you are taking it on face value, to pay it in full.

MR BLACKSTONE: Is there any other way to take it other than face value?

MR DAVIES: That will be what was discussed at the post tender negotiations, but, taking it on face value, "*paid in full*" would mean that they could have taken the assumption of the full wage

claim.

MR BLACKSTONE: That is what they said, and I think we have to assume that that is what they included. So, on that basis, having included the shift allowance in their tender, what right have they got to then come back to the States of Jersey and say “Well, we didn’t know about it” and “Pay us again”?

MR DAVIES: If you are taking it that they included it in full ----

MR BLACKSTONE: That is what they say.

MR DAVIES: ---- including the shift allowance, there would still be post tender negotiations and that was when ... because there were other clarifications which needed to be made as part of tender adjustments to prices and it could have been that ----

MR BLACKSTONE: It wasn’t included then, I can assure you, because I have read the notes of Mr Macklin’s meetings with the various tenderers. It was in the contract. The shift allowance was there in full. All the other tenderers included it, as far as I understand, and certainly Jersey Bus did.

MR DAVIES: Right. As I say, I don’t know from the clarification what was.

MR BLACKSTONE: But if they included it, what right have they then got to come back after the start of the contract and demand from the States that they be paid a compensation sum and in fact that they didn’t even know about it?

MR DAVIES: If they had included it, then they would have no come back.

MR BLACKSTONE: They have no come back?

MR DAVIES: If they had, but, as I say, I don’t know.

MR BLACKSTONE: They said they had. I just read it out to you.

MR DAVIES: But I don’t know what happened during the post tender negotiations.

MR BLACKSTONE: Well, if they negotiated specially with Connex to cut that figure out, it would have been in a reduced tender sum, wouldn’t it?

MR DAVIES: I know there was an amount of recalculation of costs.

MR BLACKSTONE: There was no such reduction, not in that amount.

MR DAVIES: As I say, I don’t know what was said during the negotiations or the discussions.

MR BLACKSTONE: We then go on to April 2003 and Connex had been running six months or so.

MR DAVIES: Yes.

MR BLACKSTONE: Were you aware that Halcrow were still involved at that stage?

MR DAVIES: We had been doing work in association with PSD and Connex until early 2004, early/mid-2004.

MR BLACKSTONE: What sort of work?

MR DAVIES: Providing advice to the States on revisions to the network in order to reduce costs potentially. It was bus network revisions that we were looking at with associated costs in order to bring the sort of subsidy to the States down, but also working with FourSight, the consultants, on the financial side. Obviously, if you cut services, there is also a corresponding fall in revenue, so it is not just a direct service cut.

MR BLACKSTONE: FourSight, is that Mr John Griffiths?

MR DAVIES: John Griffiths and Malcolm Winston. Then there was also work with or various discussions with Mike Collier regarding school services and other aspects of the operation of the contract.

MR BLACKSTONE: Just to touch on these meetings with Griffiths and Winston, you said they were involved in the accounting side of route reductions and that sort of thing?

MR DAVIES: Yes.

MR BLACKSTONE: While you were involved on the bus side?

MR DAVIES: I was on the bus operational side.

MR BLACKSTONE: Yes. In the contract there are costing provisions for additional services. That is one of the things that was required to be put in, if you remember.

MR DAVIES: Yes.

MR BLACKSTONE: Presumably, if Connex was cutting services, they were going to have their subsidy reduced accordingly?

MR DAVIES: That's what the ... that was the point of the exercise to reduce the subsidy, but we were also having to look at the effect on revenue.

MR BLACKSTONE: And these discussions with Mr Griffiths and Mr Winston took place here on Jersey?

MR DAVIES: Yes, and back in Birmingham.

MR BLACKSTONE: And you attended the ones here?

MR DAVIES: Yes. We came over as a group to work through the process.

MR BLACKSTONE: What time was that, please?

MR DAVIES: I think it would have been mid/late 2003.

MR BLACKSTONE: Now, let's just go back to this shift allowance. You have said that, you know, in the circumstances, if Halcrow (sic) included it fully in their contract, there is no claim for them to come back and demand that it be paid again.

MR DAVIES: If that was from the discussions it was found that they hadn't included it, or they had included it.

MR BLACKSTONE: Mr Childs' letter or technical note of 3rd April 2003, I presume, went to PSD: "*The consultant's advice is that it would be reasonable for the States to meet the claim for Connex for an additional £186,500 for 2002/2003.*" You don't seem to agree with your company's advice.

MR DAVIES: I don't know on what basis that note was produced. I don't know anything about the discussions beforehand.

MR BLACKSTONE: Okay, I think most of the questions are for your colleagues. Thank you very much, Mr Davies.

MR DAVIES: Yes.

MR SHEPHEARD: Mr Garrett, I may have missed it, but how long have you actually been with Halcrow?

MR DAVIES: Um, now, six years, just over six years.

MR GARRETT: And you came straight from university?

MR DAVIES: Yes.

MR GARRETT: I want to look at some office administration issues in the first instance. Can you explain the process that was adopted within Halcrow for sharing information within the

office?

MR DAVIES: Because it was only Roger and I -- Roger Childs and myself -- based at Birmingham, working on the project, we have a standard file, a server, a file server, to which documents are saved. Emails are printed out and put on the file and we have a register of outgoing post.

MR GARRETT: So everything is saved electronically?

MR DAVIES: Yes.

MR GARRETT: How about hard copies?

MR DAVIES: There are hard copy files.

MR GARRETT: And all the material, the Jersey project, the paperwork, is filed exclusively with Jersey project. It is not ----

MR DAVIES: Yes.

MR GARRETT: There is no mixing?

MR DAVIES: No, no. It is all done under an individual project number, so project work stays together.

MR GARRETT: How about the process of sharing information with Public Services here?

MR DAVIES: That was done by emailing things out. Then copies of the emails were printed out, if relevant. You will appreciate that some of the sort of day to day backwards and forwards of very minor points which have no bearing on the project, but major things were normally recorded in writing, a quick note on a piece of paper put on file or the email printed out and put on the file or saved electronically, the email saved electronically on to the server.

MR GARRETT: Was there a formal agreement, and did that formal agreement exist at the start of the contract, on the sharing of information between Halcrow and Public Services?

MR DAVIES: I don't know.

MR GARRETT: What was the schedule, the frequency and schedule, of meetings or conference calls or whatever between Halcrow and Public Services to review progress? Did you have a sort of weekly wrap up on a Friday morning on what was happening?

MR DAVIES: It was normally done on an as the project progresses basis, but, given the fact that

we were working so closely with PSD in order to ... you know, we were helping them to achieve the Bus Strategy, calls were made daily, twice daily, you know, at very frequent intervals, so PSD were familiar with what stage we were through the process and any issues that had arisen and any responses or queries that we were looking to them to provide answers to then put back to the tenderers.

MR GARRETT: Was there one person tasked with the responsibility for implementing that, was that down to Roger Childs, or could anybody sort of ----

MR DAVIES: Because it was such a small project team, it was anybody could. You know, if somebody had brought a question to me, I may discuss it with Roger if he was in the office, and then I could put it to Alan or Roger Childs could put it to Alan or, if Roger Childs wasn't in, I could speak to Roger Macklin and then we would speak. Because it was such a small project team and in order to keep the project moving because there were such tight deadlines for the documentation to go backwards and forwards, all three team members had exposure to PSD.

MR GARRETT: Where that process was adopted, was there a file note created at the end of the process to let other members of staff know what the culmination of the enquiry had been and who that information had been shared with?

MR DAVIES: Yeah. Written notes were taken down. Normally, for the tendering process, if an enquiry came in, written records were made. If it was normally by phone or if it was by email, then we would have the email, but, if it was by phone, we would make a note of it, put that on file and then we would sort of collate questions rather than send a lot of emails and send one much longer email over to PSD for them to respond as necessary.

MR GARRETT: During my research, I have noted comments which indicated that some sections of the community and States members locally were dissatisfied with the performance of, and indeed there was opposition to, Jersey Bus. What briefing did you receive on the performance of Jersey Bus when Halcrow was retained to work on the local project?

MR DAVIES: I didn't have any specific briefing as to the feeling against Jersey Bus, the incumbent. I was aware that some members of the local community had feelings against the company, but my rôle was just to support the study and support the States in the implementation

of the Bus Strategy.

MR GARRETT: Where did you pick up that information that there was some opposition to Jersey Bus?

MR DAVIES: It was sometimes from the website of the *Jersey Evening Post* and other comments that you may overhear. When we were over here riding on the buses, you hear passengers talking or listening in to people when you're waiting for a bus at the Weighbridge.

MR GARRETT: Did you also pick up any information on the relationship between Jersey Bus and the Public Services Department?

MR DAVIES: I was aware that there were the separate negotiations, although I had, as I said previously, no involvement in that work. My view that I formed was that it was PSD, acting on behalf of the States, which was trying to secure the best possible bus service for the Island, and that is why the Bus Strategy was enacted and then there was the tendering process starting.

MR GARRETT: Did you pick up any feelings that personalities were getting in the way of progress or the relationship between Jersey Bus and Public Services?

MR DAVIES: In some ways it can be hard to differentiate between personalities and company standpoints or viewpoints, but, from what I can recall, I think it was more a case that the States were looking for the best bus service and hence the tendering process, trying to get competition. It was behind the scenes rather than through competition to secure the best bus service for the Island.

MR GARRETT: Were you involved at all, or were any of your colleagues involved, in the review of the legislation? Can you comment at all on that?

MR DAVIES: I certainly didn't. I don't think Roger Childs did, but he may have done that I wasn't aware of. We may have provided, or Roger may have provided, a specific piece of advice on a certain aspect, but, as I said, we are not legal experts. We don't know Jersey law at all. That is why we said to the States, to PSD, "You have to sort out the legal side yourselves."

MR GARRETT: Did Mr Childs, Mr Macklin, Mr Richardson and Mr Muir, or did anybody else, produce a project plan, to take all concerned from the initial planning stages right through the tendering process to the appointment of a successful company?

MR DAVIES: We submitted a proposal to PSD for the sort of bus post network after tendering and other work, strategy work, which had a fixed fee and, in our proposal, we describe what work we will do for that fee. As the work then changed or whatever, there will be ... Roger Childs would produce letters to Alan Muir saying "The scope of work has changed. We will require additional fees for doing the additional work", and sort of outlining progress to date in a way that we quite often do with our contracts. They will start off in one particular direction, the needs of the project change and so you just formally write letters to the client, setting out how things have changed, progress to dates and any changes in payments.

MR GARRETT: But starting at the point where the Bus Strategy was agreed within Jersey, surely there would have been a sort of recognised process to go from there to the appointment of the successful candidate.

MR DAVIES: Yes.

MR GARRETT: Which shouldn't have involved a great deal of variation because the steps could have been foreseeable? So was there a project plan, with a series of sort of milestones built in there, setting out what had to be achieved by whatever date?

MR DAVIES: Yes. That is in our proposal. We were looking to ... I don't know what the steps given were, but one of them would have been, you know, invite invitations of expressions of interests on a certain date; send out tender documentation on another date; close the tender period on another date, so feeding it through. That would have been given in our proposal.

MR GARRETT: And how much detail would that go down into?

MR DAVIES: It would have said what the stages were and when the deadlines we were expecting were. We knew, from our knowledge of previous work, how long we thought each step would take. So there would have been some detail on exactly what we would be expecting to be undertaken at each stage during the project.

MR GARRETT: And was that project plan followed?

MR DAVIES: Er, as far as we were able to, I understand, yes. There were delays due to needing legislation to be enacted, advice from the States or whatever, but the broad timeframe in terms of length of time taken, I think there was about a month's slippage in the eight month

process. That is my understanding.

MR GARRETT: And that was because of the legislation problems?

MR DAVIES: It was ...As far as I am aware, it was to do with issues at the States' end rather than our end.

MR GARRETT: Have we received a copy of that project plan?

MR DAVIES: I don't know, to be honest.

MR GARRETT: Okay. What was the process of actually making sure that people stuck to the project plan? Was there a sort of process of regular meetings? Were action plans produced? You know, was there some kind of audit process in place whereby at the end of each week or at the end of each month somebody made sure that people were working on the right elements of the project, that there was no overlap, no wasteful use of staff time? Who was actually responsible for making sure that everything that needed to happen actually happened?

MR DAVIES: From Halcrow's end it was Roger Childs as the project director. He is responsible for making sure that the project runs smoothly. As I say, because we were working so closely with PSD, it wasn't formally every week or whatever that we would have a meeting or a conference call. It was done on a day to day basis.

MR GARRETT: Who was running the project?

MR DAVIES: From?

MR GARRETT: No, who was running the project?

MR DAVIES: I would say jointly PSD and Halcrow, making sure that both were doing or performing as required. The one key date that everybody had in their mind was the end of September 2002, when the new contract would come into force. So it was working back from that as to when certain stages had to be met and that is what was in our proposal originally.

MR GARRETT: So there was no single project manager?

MR DAVIES: Not ... from Halcrow it was Roger Childs and my understanding is that, from PSD, it was Alan Muir. So together they would be the main client contact, the main contact between the two sides.

MR GARRETT: Surely that is a recipe for disaster not having one person making sure that

things were running according to plan?

MR DAVIES: Between the two of them they were making sure that they were running to plan from their respective sides, Roger making sure that there is no wasted time from Halcrow, that we were performing to our fees and what we said we would do in our proposal; and Alan in trying to make sure that the legislation and whatever else was moved on to the best of his ability.

MR GARRETT: Is there not a danger that, somewhere between the two of them, something falls down through the middle and either doesn't get done or isn't done to a sufficient standard?

MR DAVIES: There could be, but I don't know how you would have one person, unless you brought in a separate, completely independent project manager.

MR GARRETT: That's what I had in mind.

MR DAVIES: I don't know why that decision wasn't taken, but that's not the way that normally we do our projects.

MR GARRETT: We spoke before about the receipt of the Transport and General Workers' Union letter. Now, I am sure that I've read some correspondence previously that indicated that it was emailed to the Public Services Department, and you said earlier that it wasn't?

MR DAVIES: Well, I can't remember, to be honest with you. It was three years ago. I know it was sent out by post and that definitely, you know, I can remember, because it was rushed off late in the evening to achieve the outgoing post from our office building. But email wise, I can't remember.

MR GARRETT: So it is possible that it was rather than an emphatic it wasn't?

MR DAVIES: Yes, it is possible it was.

MR GARRETT: Okay. From your files, presumably you have got an email. Did you send it as a sort of multi-hit, one email addressed to all the tenderers in one go?

MR DAVIES: No. Emails to tenderers were done individually so that no company could see who else was bidding too.

MR GARRETT: Did you keep file copies of the emails that you sent to those tenderers?

MR DAVIES: I have some. I had problems with my computer about a year after the tendering process, just when we were starting to fully archive everything onto the server so that it could

then be archived off onto a completely secure disc and some of the documents were lost. But I have received emails from various companies where they were generated saying they've received the TGWU email and I didn't receive any message coming back saying that the message couldn't be delivered. With the email, where we scanned in the TGWU letter as a jpeg file, we did have some emails coming back from the mail server, saying "This has a photo attached to it. The file is being held", you know, "and it needs to be released". So I would then have to contact the respective person at that company and say "I've sent you this email. I've got a message back saying it has been held because it's a picture. Can you speak to your IT Department and get it released because it's a document referring to the tendering process?" So I am fairly certain that where that happened ... well, I know where that happened those documents got through. As I say, I got nothing back saying they haven't been delivered and those email addresses have been used throughout the project and I haven't had any problems with them before. So the assumption was that everything else had been received by the tenderers.

MR GARRETT: I'm confused, because, in either December 2003 or January 2004, I'm sure that Roger Childs wrote to Alan Muir confirming that it had been emailed to him.

MR DAVIES: I don't know. I can't remember. I don't know about that letter that Roger wrote. It was definitely posted out. I mean, we have that written down, but I cannot remember about the email.

MR GARRETT: Okay. It was subsequently said by Public Services that they didn't receive the correspondence. Is it possible that, in the pressure of the moment, you actually didn't send it to them?

MR DAVIES: No. I distinctly remember, because of having to deal with all the letters. We do ... if it is a letter to go out which I signed, we then do two copies. One goes on the project file and one goes into a central file of outgoing post. So, under pressure of producing all of those and trying to make sure that the bidders got their letters, I then knew that it needed to go to PSD in case they hadn't received it and that's why I just did a very quick compliments slip on the front and addressed it to Alan Muir, put it in an envelope and sent it off and then realised I hadn't recorded that, so wrote it in on one of the copies of the file copies of the tenderer.

MR GARRETT: Can you bear with me for a moment? Can you just assume that you did send an email?

MR DAVIES: Hmm hmm.

MR GARRETT: Did you ever receive, or did you ever send, emails out to Public Services and not get a receipt back?

MR DAVIES: It depends on the configuration of the email server. For those ones where I would request a receipt or receipts, yes, when it was received by the in box and also when it was opened, but some of the email servers won't actually return those messages. They are set up for security reasons or whatever not to send those messages back. So I only got a receipt message if the company's email server would permit them.

MR GARRETT: Right. So it wouldn't be unusual for you to send out an email and not get a receipt back?

MR DAVIES: Yes. There are several instances of companies where, at that stage, we were dealing with, I think it was, eight or nine companies and I would get two or three received messages back, but, as I say, we'd sent previous emails with attachments and we knew that those emails had got through, so there was no presumption that there was a failure in the email.

MR GARRETT: During this period, prior to the sending of that email -- you assumed this anyway -- did you ever receive any complaints from Public Services that they had not received emails from you?

MR DAVIES: Not that I can remember, no.

MR GARRETT: Following that date through to the end of 2003 when this became contentious, did you receive any complaints from Public Services that they had not received any emails?

MR DAVIES: I don't think so, not that I can recall.

MR GARRETT: Similarly, did they ever complain that they hadn't received any letters from you?

MR DAVIES: Not that I'm aware of.

MR GARRETT: What's the probability of somebody not receiving an email and a hard copy version of that email, would you say?

MR DAVIES: I would say low.

MR GARRETT: Close to zero?

MR DAVIES: Probably, yes. **(Pause)**

MR GARRETT: Eventually, in 2003, which my colleague has just sort of touched on, it seems that Roger Childs either was not aware of the Transport and General Workers' Union letter or wage claim or he had forgotten about it. Just to go back on the issue of the sharing of information, when you received that letter, did you absolutely make sure that Roger Childs and Macklin were fully up to speed? Did you actually show them the letter, draw their attention to it, saying "You really need to know about this" or was it just put in a file and ----

MR DAVIES: No, no, no, wait. Because, as I say, it was so late in the day and ... (indistinct) ... and I needed to turn it round so quickly, Roger Childs was on leave that week, so I was dealing with Roger Macklin. I faxed that letter straightaway to Roger Macklin and we discussed it very briefly just to make sure ... so I was clear that it was as urgent as it was, which was my first assumption, and just so that Roger was aware that the fax had come in, I also left a message on Roger Child's mobile, which he did pick up. He didn't get back to me the same day, but I made him aware because it was such a significant part of the tendering process. It is the wage claim. We knew from Jersey Bus that they were in wage negotiations for the following year's, or I think it was that September's, wage claim. But we were waiting for details to come through. So when the fax arrived with the TGWU starting position, that's why we responded as quickly as we had to, to allow the tenderers, the bidders, to incorporate those costs in the ... in whatever they wanted to assume may be settled into their bids for the contract. So Roger Childs and Roger Macklin were both aware of the letter and, when Roger Childs came back from leave on the following day, he had a look at the fax as well just to make sure.

MR GARRETT: So he was fully aware of their claim?

MR DAVIES: He was, yes.

MR GARRETT: And the files by April of the following year, they were still available?

MR DAVIES: Yes.

MR GARRETT: In fact two years later, in 2003 they were still available?

MR DAVIES: Yes.

MR GARRETT: And he could have refreshed his memory.

MR DAVIES: Well, we knew that the wage claim was an issue and, therefore, we were aware of it throughout.

MR GARRETT: So he could quite easily have gone back through the files and researched the origins of that claim to find out when people were aware before going to the meeting with Connex?

MR DAVIES: I am fairly certain he would have done, yes.

MR GARRETT: So it remains a mystery as to why crucially at meetings with Connex he concluded that it would be reasonable for the States to pay them back.

MR DAVIES: As I said, I don't know what other discussions went on before that stage, so ... Yeah, I assume there was a discussion as to whether or not the pay claim should be made and that we were therefore asked by PSD to provide our professional opinion to them, which was up to them to accept or ignore.

MR GARRETT: You must doubtless be aware that this has proved to be a fairly contentious issue locally?

MR DAVIES: Yes.

MR GARRETT: Now, have your procedures, office procedures, changed at all since this situation arose?

MR DAVIES: Not that I'm aware of, no. We still maintain the registers of in and out post and project filing and everything else.

MR GARRETT: So there is no feeling within Halcrow that they may have in any way contributed to the creation of this situation?

MR DAVIES: No. As far as I am aware, we made everybody aware of the wage claim.

MR GARRETT: And presumably there was an expectation as a result of that notification that tenderers would take full account of that letter?

MR DAVIES: It was up to the tenderers to decide what aspects of the claim they would ----

MR GARRETT: But they would ignore it at their peril.

MR DAVIES: It was up to them as commercial organisations, based on their previous bus operation experience, to decide what would be a reasonable settlement, but, yes, that was a purely commercial decision on their part for them as to what to put into their tender bid.

MR GARRETT: As I said, “Ignore it at your peril”?

MR DAVIES: Yes. That is what the post tender negotiations were for, to find out exactly what had been included or hadn’t.

MR GARRETT: You said the “*post tender*” procedure? This is after the tenders have been submitted?

MR DAVIES: Yes.

MR GARRETT: But before they were fully evaluated?

MR DAVIES: Um, I understand so. There were ... the tenders were received at Halcrow’s offices on 18th February, apart from the Jersey Bus one obviously, which was delivered to PSD. Given that they were on the Island, we couldn’t see any point in that document coming over to Birmingham. The documents were then locked away. Roger Childs and Roger Macklin came over to the States for them to be opened by States members and nobody else there. I understand that we then, or the two Rogers then, gave a very quick glance through the tenders just to see what sort of values had come in, what the range of values was. What happened after that I’m not exactly sure, but I know there were discussions between the short listed, you know, between the five companies that submitted, just so that we understood fully what they had put in their tenders and they understood fully why we were asking questions of them, just to clarify aspects of their bid and ensure that costs had been entered correctly.

MR GARRETT: When embarking on that, was there any kind of checklist produced, you know, to make sure that all of the key points were covered?

MR DAVIES: Um, as part of the process we produced a shadow franchise, which, using standard unit rates for labour rates and whatever else, we would come up with a figure as a guide for the States to see what would be a, you know, straight value comparison. So that was used as a discussion point for where there were great variations and also there were different cross tenders, ignoring the shadow franchise, which was a pure exercise, looking across the submitted

tenders to see where there were big variations in prices, because we would then have to try and understand why there were those variations and making sure that the companies ... There was an issue regarding fuel duty rebate, which was under discussion at the time. That was taking up a fair ... that was ... More of a discussion point, I understand, than the TGWU claim was making sure that the correct values for fuel duty rebate had been incorporated in the tenders.

MR GARRETT: In your shadow tender, what staff cost did you use?

MR DAVIES: We used the 4½% raise. We didn't include the shift allowance.

MR GARRETT: Why?

MR DAVIES: That was seen as a very unusual claim for a shift allowance to be paid when none existed previously. I mean, the shadow franchise by its very nature came out higher than the competitive tenders. That is what it is there for. It is a very high end cost to make sure that you are sort of using average rates; whereas all the tendering bus companies have got far more accurate cost rates, day to day rates and everything else. So theirs, as we expected, were below the shadow franchise.

MR GARRETT: I have a hypothetical question for you. If you had been on the commercial side of this, preparing a tender on behalf of Company X, would you have ignored the claim in respect of the shift allowance?

MR DAVIES: As a bus ... I am not a bus operator. From my view, I thought the shift allowance or the shift claim was a very unusual claim to make, to submit. The only equivalent we knew of was in London, where Ken Livingstone was paying £20 a week direct to his drivers, but that was to help with driver retention and is a one-off within the UK. As far as I am aware, there are no other companies that are paying additional sums, or local authorities that are paying additional sums, over and above the standard contract price and, therefore, we felt (or I would feel) that that shift allowance was a very, very unusual claim; and if I was an operator, I would continue to negotiate that one away to a slightly higher standard per cent pay rise but not to have the per cent pay rise and the shift allowance on that as well.

MR GARRETT: Did anybody from Halcrow enquire into the basis of that claim so that you actually had a firm understanding of what it was about?

MR DAVIES: Because it was so late in the day, we didn't have time to go back to the TGWU and to Jersey Bus to find out what the basis was. And also, because it was a wage claim, it wasn't agreed at that time. That was just the starting point. That is why it was put out as "This is the claim from the TGWU for information for the tenders" and we provided no advice on what to think and what to exclude.

MR GARRETT: Okay. I think I've come to the end of, or I'm coming to the end of, my questions for you, but one question which I put to, or two questions that I have put to everybody. If you were embarking on this kind of project again, what would you do differently?

MR DAVIES: Um, I don't think there is much I would change. Um, you can never foresee what is going to change in the future. We acted with all due professional care to make sure that all bidders and PSD were informed of all ... were kept supplied with documents and everything else. With hindsight, you could perhaps say that we should have done a lot more checking back to make sure the phone calls and every single item that we sent out to making sure that all the bidders had received things, but, in the early days, when we sent out the pre-qualification packs, we dealt to 29 companies. When we started tendering, we were down to 12 companies. So the additional resources which the States would have had to have paid through increased fees to us because of the staff time typing and checking that every single email had been sent out, had been received and was being acted on correctly by the companies, I would say that would be perhaps the only one thing, but that would have to come from the States, or through discussion between us that they wanted that to happen.

MR GARRETT: Focusing on your particular area of expertise and involvement, do you think that the tender documents were sufficiently comprehensive. Do you think you would have benefited from gaining a better insight into the nature of the bus service locally in terms of passenger demand and so forth?

MR DAVIES: Um, Jersey Bus were the only company who had that information.

MR GARRETT: Could it not have been derived from some kind of independent study, retaining students or something over the summer months?

MR DAVIES: The States would have to have paid for that and, just given the timescale of

implementing the Bus Strategy and the pressures on the process, I think it was felt that it wasn't possible to achieve that, given when the legislation was enacted and when the whole process started off, which was in the September, I think, of the 2001, so it was after the summer. But all bidders were encouraged to come over to the Island and make themselves as fully aware of the operations as they could gain from observation. As I say, Jersey Bus were the only ones who operated on the Island and knew how the Island operated and so they had a commercial advantage.

MR GARRETT: But the downside to that was that, by the time the tenderers were looking at submitting their bids, it was winter and the winter service and winter demand bears absolutely no resemblance to the situation that exists in the summer.

MR DAVIES: They came over during the shoulder period, when there is a slight reduction in service, but there are still additional services like more early evening services and some summer services are still running, albeit at a slightly reduced frequency. But there was more of a summer operation than a deep winter operation. Several of the bidders already had been over to Jersey for holidays or whatever anyway, so they claimed (as a busman does on his holiday) he has a good look at the local operations to see how things are done. So it was left to the operators to make sure that they were aware of the operations. But if this was to be done again, then perhaps the timescale could be reviewed. But we were working on the timescale that the States and PSD had imposed at the time.

MR GARRETT: I mean, that was the point I was aiming for. Why was there such an urgency?

MR DAVIES: I don't know. That was the timetable that had been set and it was told to us by PSD that it would be enacted from the end of September 2002, or the end of the summer timetable. That was the timetable that had been set for us to work to. I don't know why that timetable was set. It seemed the logical changeover time, the change in the timetable, because it gives the new operator time to bed in rather than coming in the spring, when gearing up for the peak summer season, to bed them in in the winter and round up operations into the spring and summer of the following year.

MR GARRETT: But that urgency precluded a detailed study of demand and so forth, bearing in

mind that Jersey Bus had the information and they were probably not inclined to release that information at the time, but it certainly precluded a detailed study being conducted which would have enabled you to produce a more comprehensive tender document to make sure that there was a level playing field, so that then everybody was tendering on exactly the same spec.

MR DAVIES: That was a decision of the States. That was the timetable we were following and, therefore, we were working to that timetable. But, it would have produced ... yes, you get ... in the UK when you have a new bus route tender put out to tender, you have no operational information and operators bid on that basis. The unusual aspect here was that we did have Jersey Bus as the incumbent operator and they did have the commercial information, but, as I say, the timetable was set by the States and that was something to which we worked. It was their decision and I don't know why or how that timetable was decided.

MR GARRETT: Did anybody approach Jersey Bus and actually put a deal to them that they couldn't refuse to share with you their information, actually buy it, pay them compensation for it?

MR DAVIES: I have no idea. There was a collusion clause in the formal tender -- I think it is one of the documents -- that they had not colluded to certainly fix prices. Each tenderer was free to approach Jersey Bus to obtain any information that they may have wanted to, but we didn't. Hence with the other subsidy work, we had to sign a ... or Roger Childs had to sign a confidentiality agreement that we worked with your information, with Jersey Bus' information, but once that work was done, we forgot and we couldn't use that work, that information, at all for any other aspect of that or any other study.

MR GARRETT: Was there ever any discussion about approaching Jersey Bus to see whether or not they would part with the information for some form of payment?

MR DAVIES: I don't know. I think, if there had have been, it would have been between the States and Jersey Bus rather than us approaching Jersey Bus.

MR GARRETT: Do you think that would have been beneficial?

MR DAVIES: We could have approached them. Whether they decided to realise the information is a purely commercial decision on their behalf.

MR GARRETT: Okay. I have reached the end of my questions, but before closing my session, is there anything that you want to tell us, any statement you want to make or if you want to point us in the direction of a particular issue that you think we should be investigating?

MR DAVIES: No, not as far as I am aware. We have discussed all the aspects that my understanding is this Committee is out to investigate.

MR GARRETT: Fine. Thank you.

MR SHEPHEARD: Mr Davies, I have no questions for you, but I understand my colleague, Mr Blackstone, has one or two matters he wants to clarify.

MR BLACKSTONE: Just a couple of clarifications. The tendering was all based on the 2002 schedules, bus timetables and that sort of thing -- 2000, I beg your pardon.

MR DAVIES: Yeah, winter 1999 and summer 2000.

MR BLACKSTONE: But some of those routes were pretty much obsolete by then and undermanned. Was there no attempt made to say "Look, are these the right routes you want to tender on? Should we have a more practical tendering system?"

MR DAVIES: From what I can recall, and this is only limited involvement in this decision, the States took the view that they wanted to start with the full network as it had been before various service cuts had come in -- hence the winter 1999 and summer 2000 timetables -- they wanted to go back to a full network basis, which would then operate for a year so that we could collect the information, which could then be used to review the network and get a full year's worth of accurate data. Then it would be the end of year one, so over the winter, the second winter, the bus company would then be able to go away and start reviewing its network, having received all of the loading information and whatever else.

MR BLACKSTONE: Going back to the shift allowance, you say it is very unusual. Then all of your experience presumably is with buses in the UK and you have never been on an unusual place like Jersey before?

MR DAVIES: Jersey is a unique operating environment for buses. I know that discussions were held with PSD regarding the form of competition. When they decided to open, they wanted to change the way buses were operated on Jersey. As part of the Bus Strategy, it was decided to go

for, is it called, bordering competition rather than road competition, as you have on Guernsey, which, you know, resulted in the failure of one of the companies. And the UK is the ... London certainly is one of the main areas for route or network franchising, but we do have other members of staff who are experienced in operations in Europe and elsewhere. Roger has been involved in regulation studies overseas. Roger Childs has been involved in regulation studies overseas, and so he would use that experience.

MR BLACKSTONE: I am just surprised that when you got this TGWU letter you said "Oh very unusual" and you didn't say "What the hell is it all about" or go back and find out what it is all about. You just sort of passed it out to the tenderers without explanation. It seems a bit surprising as it was so unusual, as you say.

MR DAVIES: We felt it wasn't our place -- it wasn't our place -- to go back and research why the claim was being made to the TGWU. The fax had come to us from Jersey Bus. Jersey Bus had sent the fax to us.

MR BLACKSTONE: And from TGWU directly, I believe, too.

MR DAVIES: We received various copies of the fax from different sources. But it was because it was so late in the day we didn't have time, because there was a weekend looming as well.

MR BLACKSTONE: You had six days, the 12th to the 18th.

MR DAVIES: Well, tenders were due in on the 18th, so tenderers couldn't really do any work on their tenders on that day. That was ... as I recall, the 18th was a Monday, so Saturday and Sunday they couldn't do much work on their tenders either.

MR BLACKSTONE: When they got this notification from you, none of the tenderers came back and said "What's all this?"

MR DAVIES: No. It was sent out, saying "This is the wage claim."

MR BLACKSTONE: You see, if they didn't ask and didn't know what it was, presumably they had to include it?

MR DAVIES: It was for them to take a commercial decision on what the current incumbent operator would be likely to try and negotiate.

MR BLACKSTONE: Right. Just a very quick one. You said you had a fixed contract price for

the work you did for PSD with subsequent additions.

MR DAVIES: Yes.

MR BLACKSTONE: I think your first billing was £5,000?

MR DAVIES: I have no idea.

MR BLACKSTONE: Your accounts department?

MR DAVIES: Roger would be or the accounts department.

MR BLACKSTONE: Roger?

MR DAVIES: Childs.

MR BLACKSTONE: That is all. Thank you very much.

MR SHEPHEARD: Yes. Well, thank you very much, Mr Davies. Thank you very much for coming and giving us your time this afternoon.

The witness withdrew

MR SHEPHEARD: I think we have reached the end of what we had programmed for this afternoon, so we will now adjourn until 9.30 tomorrow morning.
