



Public Accounts Committee

Procurement Review

Witnesses: Group Director, Commercial Services and Treasurer of the States

Thursday, 7th May 2025

Panel:

Deputy I. Gardiner of St. Helier North (Chair)

Deputy R.S. Kovacs of St. Saviour

Mr. V. Khakhria

Mr. P. Taylor

Ms. H. Thompson, Deputy Comptroller and Auditor General

Witnesses:

Mr. R. Bell, Treasurer of the States

Ms. C. Hastings, Group Director, Commercial Services

Mr. P. Raffray, Senior Category Manager

[13:31]

Deputy I. Gardiner of St. Helier North (Chair):

Good afternoon, everyone, and welcome to the public hearing of the Public Accounts Committee. Today is Wednesday, 7th May, and this is a public hearing with the Treasurer of the States and Commercial Services. We undertake this hearing as part of our procurement review. Can we please begin with the introductions? I will start with the Public Accounts Committee. Deputy Inna Gardiner, chair of the Public Accounts Committee.

Deputy R.S. Kovacs of St. Saviour:

Deputy Raluca Kovacs, member of the committee.

Mr. P. Taylor:

Philip Taylor, lay member.

Mr. V. Khakhria:

Vijay Khakhria, lay member.

Deputy I. Gardiner:

And we have in attendance ...

Deputy Comptroller and Auditor General:

Helen Thompson, Deputy C. and A.G. (Comptroller and Auditor General), standing in for Lynn Pamment.

Deputy I. Gardiner:

Thank you. Would you please introduce yourself?

Treasurer of the States:

Richard Bell, Treasurer.

Interim Director, Commercial Services:

Caroline Hastings, Director of Commercial Services.

Senior Category Manager:

I am Paul Raffray, category lead working with Caroline and her team.

Deputy I. Gardiner:

Thank you. We have scheduled the hearing for 1½ hours. We have a number of questions to get through. Please, could I ask you to keep your answers short, and apologise if we interrupt you to keep on time? Any questions that we will not get around to we will send in writing. One more apologies before we will start; we have received your answers - thank you for the answers - but we received it yesterday at 8.00 p.m. so we have not been able to review the information that was provided. There are likely some questions we would ask

that you might have provided a full answer at the written response, but please just answer in the public hearing to make sure that we are all up to date and we are talking about the same things. I will start with the first area of questions and this area around risk mitigations in procurement practices. Because, as we all know, the core objective of any procurement framework is to minimise the risk of fraud, corruption and misuse of public money. In any organisation, especially in government organisations, we are particularly concerned about small and medium-sized procurement under £25,000 or between £25,000 and £100,000, where it receives less scrutiny than the official tender processes, which will be required above £100,000 spend. Would you please advise how does your team identify, assess and monitor potential fraud and corruption risks across the procurement life cycles of small and medium procurements?

Interim Director, Commercial Services:

I can start with that. We have a process of managing risk corruption across all of our processes. The fact that whatever size or value it is the same principles apply, and we regularly run reports on expenditure and, in some cases, and certainly the C. and A.G. has done the same exercise running reports at under £25,000, so looking to see where perhaps disaggregation of spend may be happening. That is one indication that we would look for to determine whether we should ... if there is anything of interest there that we need to raise. Certainly the C. and A.G. has helped us with that analysis. The same rules apply whether it is £25,000, £100,000 or over £100,000 in terms of when we are engaging with suppliers to do some due diligence checks on them to verify if they are *bona fide*, to make sure that they have, certainly within the £25,000 to £100,000, the appropriate standards, they have the right mechanisms in place. If we have asked for certain qualities, standards, particular I.S.O. (International Organisation for Standardisation) standards, that we make sure that they are fit for purpose and they are able to bid for the work.

Deputy I. Gardiner:

The question, for example: do you have any threshold for ... let us take a hypothetical scenario. It is hypothetical that a company got a contract for £24,000, and after got another contract for £23,000, and the third contract for £22,000, which all of them are not meeting a threshold for quotes. Do you have any threshold or any brakes within the system when the same company would get 2, 3, 4, 5, contracts under £24,999 that you would review what is happening?

Interim Director, Commercial Services:

That would have to be a manual process. A system does not automatically flag. We would be looking at spend analysis through SAP.

Deputy I. Gardiner:

Basically, there is no way to know that maybe the same company will get basically ...

Interim Director, Commercial Services:

No, there is but it is a manual process. It means somebody would have to go through and check. We can look at aggregate spend.

Mr. V. Khakhria:

I guess the question is: is there a process to trigger that manual process?

Treasurer of the States:

There is a breaches and exemption process. If you were to let a contract at £24,999, and you subsequently extended that contract ...

Deputy I. Gardiner:

No, not extended. Like you have 3 contracts and they are on 3 different parts of the jobs that would be required because they are completely 3 different jobs but it is the same company.

Treasurer of the States:

If they are completely 3 different jobs then ...

Interim Director, Commercial Services:

The rules would apply to the £25,000.

Deputy I. Gardiner:

Hypothetically, you have a kitchen ...

Treasurer of the States:

I had the danger of my Minister answering a hypothetical question not recently.

Deputy I. Gardiner:

So basically, if I understood correct, there is no automatic trigger that will raise a flag that there is a company that continues to accumulate spending with bids under £25,999. Is that correct?

Treasurer of the States:

So the risk becomes ... if they deliver those contracts for £24,999, that risk is far reduced. If they extended, so they gained the work at £24,999, but subsequently on that particular contract went above that, then there is a requirement for the department or, in the case of corporate contracts, the Treasury to go through an exemption and breach process. If you started to see a pattern emerging by reviewing breaches and exemptions log ...

Deputy I. Gardiner:

No, I understand.

Treasurer of the States:

... then you would start to see that a particular entity or a particular department, for example, had a proliferation of exemptions or breaches that were caused by extending contracts beyond the limit for which they were first getting them. That is the process you would see. If, however, a supplier was quoting whatever that number was and fulfilling those contracts in different departments, that is not the same risk as getting the work on one threshold and then extending beyond that.

Deputy I. Gardiner:

But if it would be within the same department on similar types of jobs, same company getting similar contracts and actually others not receiving a telephone call, how would you deal with it?

Treasurer of the States:

How would I deal with it if they delivered a contract for £24,999?

Deputy I. Gardiner:

It is basically if they deliver a contract for £24,999 and it does not matter how many contracts they deliver for £24,999, it is within the framework?

Treasurer of the States:

If they were disaggregating contracts, then that is a different matter. If, however, they were delivering wholly different ... and this is a hypothetical.

Deputy I. Gardiner:

Absolutely.

Treasurer of the States:

I am not sure how often this hypothetical has ever come up, in my experience. It is more likely, but still not overly significantly happening, that someone gains a contract when the department has asked for 3 quotes because it is between £25,000 and £100,000, and that they then exceed the upper threshold, which would have meant that they should have tendered.

Deputy I. Gardiner:

No, this is completely what I am talking about.

Interim Director, Commercial Services:

That is a different scenario.

Mr. P. Taylor:

Deliberately playing boundary creep, if I can call it that.

Deputy R.S. Kovacs:

They will split the job to get multiple £24,999 with the same contractor for similarly the same job, but different bits in the same job.

Treasurer of the States:

We do not see a lot of evidence of ... I would say in that case they are broadly the same contract and they have gone above the threshold and that therefore they are captured by the ... they should be captured by the exemption.

Deputy I. Gardiner:

How do you identify that?

Treasurer of the States:

How would you identify that? It is for the person responsible for the actual spend, the accountable officer or their team, to file a breach or an exemption for having not let the contract in the first place.

Interim Director, Commercial Services:

For having deliberately perhaps, in this hypothetical situation, bid low or gone in low and then decided: "Well, let me give them more work."

Mr. P. Taylor:

So you have got no examples that you can think of where someone has bid low and deliberately bid low below a threshold and then billed more?

Treasurer of the States:

Can we just clarify here as well?

Interim Director, Commercial Services:

I think we are talking about 2 different things now.

Treasurer of the States:

The estimated contract value is the responsibility of the department that lets it. If the estimate is at less than ... I keep getting my thresholds wrong - less than £25,000 ...

Interim Director, Commercial Services:

It is a single quote, yes.

Treasurer of the States:

If the department has estimated that it is over £100,000, then it needs to go to full tender. If a company bids £24,999, that is irrelevant in that the full tender process would have been undertaken. If a department subsequently awarded it, and in this case it would be £99,999, to that particular entity then they would require ... and then the cost exceeded the £100,000, then they would be required to fulfil a procurement exemption or breach.

Deputy I. Gardiner:

I have a question. For example, the contract was £24,999 and the contract had gone into £35,000, would they be required to submit the breach of contract?

Interim Director, Commercial Services:

It would not be a breach of contract, it would be a breach of threshold.

Deputy I. Gardiner:

Would be a breach of ... so would they submit the breach of threshold?

Treasurer of the States:

Not the supplier.

Deputy I. Gardiner:

Not the supplier, the department, yes.

Interim Director, Commercial Services:

The department should be notifying by breach that it has exceeded the ...

Deputy I. Gardiner:

And this is how it came to you? This is where you will see these breaches?

Interim Director, Commercial Services:

Yes.

Deputy I. Gardiner:

Okay, let us move on. What extra safeguards, if any, are used for mid-value procurement where the local small and medium businesses often face the most hurdles? Because this was the submissions from small and medium businesses, that they feel that there is a white list that they cannot get through. It might be perception. I am not telling it is anecdotal, I am not telling it is correct, but there is a perception. So it is very difficult to argue with the perception of the small and medium businesses. How can we ensure them ... what extra safeguards we do have in place that help them to get through the hurdles and engaging ... deliver work for the Government?

Treasurer of the States:

I will give Caroline a bit of think time. First and foremost, of course, if we are talking about small and medium-sized entities, small and medium-sized entities are more likely than perhaps “Big 4” consultancies to be looking for work at either less than £25,000 or less than £100,000, which is therefore a lower hurdle in terms of quotes, as opposed to the full tendering processes.

[13:45]

I would however say, and it used to happen and we have started it more now, importance here in terms of businesses being aware of what the work is, is fed by improved engagement with local businesses so they can see the work coming. This is a common thing that goes throughout. If commercial services do not understand the department’s pipeline of work, then we end up with bottlenecks, we end up with frustration, we end up with departments and commercial services not perhaps being 100 per cent aligned. Similarly, between Commercial Services and the department, if suppliers do not see what the pipeline of work is, if they do not even know what the work is, then they will not know how to go about bidding and they will not know how to go about preparing to gear themselves up, perhaps in partnership with other entities or other companies to get that work.

Deputy I. Gardiner:

Can you give me an example engagement that were with small and medium businesses to explain, to train, to prepare them over the last year?

Interim Director, Commercial Services:

Yes, I can pick that one up. Pipeline, as Richard has alluded to, is the most important thing, and that is one of the areas that we are building, that we are working on to build out. This is a pipeline of things that we know, either contracts are coming to an end or we are understanding that departments will require certain things. We want to be able to publish a pipeline so that particularly small and medium suppliers can start to prepare and start to position themselves in a place where they can bid, and make themselves familiar with the type of work that we will be looking for in the future.

Deputy I. Gardiner:

No, I understand. What has been done during the last year from the engagement point of view with small and medium businesses practically?

Interim Director, Commercial Services:

Okay, practically. I personally have met with a number of particular providers.

Deputy I. Gardiner:

Did you reach out to them or they reach out to you?

Interim Director, Commercial Services:

I have reached out to them and they have reached out to me or to us. I had a number of discussions with the likes of Tony Moretta from Digital Jersey, who has been outlining some of the challenges that that sector faces. I sat with the Construction Hub, which I am a member of now, and met with some of the local building companies. In terms of, at the moment, the emphasis is upon them to work with large companies in the U.K. (United Kingdom), they would like the opportunity to actually lead the opportunity and for them to partner with people in the U.K. So these are the discussions that we are having. They are early days, but that is it.

Deputy I. Gardiner:

So there is no still plan in place like in the engagement that is happening quarterly-based in a specific place where you can update the industries?

Interim Director, Commercial Services:

No, that is building. Certainly the Construction Hub is a regular meeting. The digital investment - I cannot remember the exact title - digital ...

Treasurer of the States:

Do you want to talk about the R.F.I. (request for information) process talk?

Interim Director, Commercial Services:

Yes. So we met at the industry event with Digital Services where we had 40-plus local suppliers coming to hear about the pipeline of work that was going to be launched into tenders and quotations.

Deputy I. Gardiner:

Basically if I am ... is it anywhere on the gov.je I can go and as an established business ...

Interim Director, Commercial Services:

Not yet.

Deputy I. Gardiner:

... say: "Okay, I would like to hear from the Government about the pipeline these days. Twice a year or 3 times a year we will be meeting at this place to kind of update." It is not yet?

Interim Director, Commercial Services:

It is not yet.

Deputy I. Gardiner:

I understand.

Interim Director, Commercial Services:

But that is the plan and these initial meetings with these groups, and it is very early days, is that we want to build that rapport and actually be more aware of what they can offer. Because that is mutually beneficial for us when we are looking at our requirements and when the business is looking at new opportunities.

Deputy I. Gardiner:

I understand.

Interim Director, Commercial Services:

It is also good for them in terms of maybe positioning themselves to be in a position to bid.

Deputy I. Gardiner:

Thank you. When the urgent work or unexpected work is coming in, obviously the traditional processes cannot work. How do you mitigate risks such as price inflation or conflict of interest in emergency procurements?

Interim Director, Commercial Services:

What do you mean by an emergency procurement?

Deputy I. Gardiner:

I mean, we had during the COVID, it would be emergency procurement, something that you need to procure straightaway. You cannot go through the traditional. What are the frameworks for the emergency procurement to ensure that it is not price inflation?

Treasurer of the States:

So having to sign off on most of the ... we are talking about pandemic level of emergency as opposed to ...

Mr. P. Taylor:

Sinkhole would be a better example.

Deputy I. Gardiner:

Sinkhole would be a good example.

Mr. P. Taylor:

That is the best I can think of quickly. Sinkhole, big hole in the road, it has to be fixed.

Interim Director, Commercial Services:

This is Rouge Bouillon, yes? Is that where you are thinking as an actual example?

Deputy I. Gardiner:

Any sinkhole on Victoria Avenue tomorrow, that will not happen.

Interim Director, Commercial Services:

In an emergency, there are certain checks and balances you would need to put into place but you would need to know cost estimates and have an understanding of what those costs would have been in a normal situation.

Deputy I. Gardiner:

Do we have it within P.F.M. (Public Finance Manual), do you have it as a framework, do you have it as a guidance, emergency procurement, anything that is structured?

Treasurer of the States:

Answering this question from the perspective of the Infrastructure Department, sea defences for example, they have frameworks or contracts in place.

Interim Director, Commercial Services:

Yes, they do.

Treasurer of the States:

Already in place for the provision of materials, if I can put it that way. Materials are generally the thing you need to fill sinkholes with, and they will go to those existing framework contract holders?

Interim Director, Commercial Services:

Yes, they do.

Deputy I. Gardiner:

But it is nothing centrally at the Commercial Services that actually said: "This is our framework for emergency procurement. This is the steps that you need to follow up"?

Treasurer of the States:

If you want to talk about actual emergency in the sense of pandemic, then much of that was controlled through Caroline's predecessor and me signing off on exemptions ... pretty much usually exemptions from existing supply routes. We were obviously having to investigate and look at supply routes. We were always having to ... we were in the normal course of business pursuing. I think in a sense of ... so that would then mean that we would have to do risk assessment regarding those. We would have to be doing the usual steps you would expect but on a higher risk appetite throughout that and at pace in order to procure this. But they were generally mostly signed off. In the case of sinkholes, well sinkholes are sinkholes but sea defences often have holes in them arising from storms, and that department will have contracts in place to call down.

Deputy I. Gardiner:

So it is within the department?

Treasurer of the States:

But when it comes to a pandemic level of emergency then, yes, Commercial Services has a much greater role to play in signing off on exemptions and accepting additional risk appetite, as we did throughout the period of the pandemic.

Deputy I. Gardiner:

Now a couple more questions from me before we move on. In the Public Finance Manual you do have exemptions for the confidential contracts. So I think it was written as a secret contract within, and I was not sure what it is. Can you please provide examples and criteria for when exemptions might be applied for confidential contracts? Examples type of confidential/secret contracts because it is part of the Public Finance Manual.

Interim Director, Commercial Services:

I am having a think.

Senior Category Manager:

I think, Caroline, we had one yesterday in respect to telecommunications within the blue light service, if you recall.

Interim Director, Commercial Services:

Yes. Thank you, Paul.

Senior Category Manager:

The challenge I have, and I am looking to you, Caroline, is because it was declared secret I do not know how much I can say here now, but that would be an example.

Deputy I. Gardiner:

But we would like to understand what type, what are the criteria that you apply and that you decide that this contract is confidential?

Interim Director, Commercial Services:

If it is of national security then that obviously has to be dealt with separately. The normal rules would apply, would it not, for its secret? Then the number of people involved would be very small and it would be signed off at the senior level.

Deputy I. Gardiner:

The last one is about the breaches. How do breaches occur in practice and what are the most likely scenarios for the breaches of procurement?

Interim Director, Commercial Services:

Often it is where the contract has expired and there has not been sufficient time to re-tender it, which is poor planning.

Deputy I. Gardiner:

It is poor planning.

Interim Director, Commercial Services:

Emergencies, although that would also have a particular reason as to why if they happened to breach. Contract value exceeded, which is where the contract value is more than anticipated, for a number of reasons.

Deputy I. Gardiner:

If you are thinking about ... I think I did pick up this number. How many breaches were in 2024? It is 100-something, is that correct?

Interim Director, Commercial Services:

Yes, I provided the list to you.

Deputy I. Gardiner:

Yes, because it was 8 o'clock in the evening that I was not sure. So if you are thinking about 140-ish breaches that were in 2024, how would the percentage you divide, how many of them were poor management, how many of them were emergency, and how many of them exceeded the values expected, approximately?

Interim Director, Commercial Services:

I have not done the numbers on that but I would say the majority are overruns. There has been insufficient time to run a full process.

Deputy I. Gardiner:

So poor planning.

Interim Director, Commercial Services:

That is one of the key areas, yes.

Deputy R.S. Kovacs:

How are departments or individuals held accountable in these situations?

Interim Director, Commercial Services:

How are they held accountable? Well, the breaches are ... obviously, we would go back to the departments. It is not necessarily the central team's responsibility; this is the accountable officer. So there is guidance given. In some instances we support them to get back into a position where they are compliant, and we work hard to do that. It is not necessarily a deliberate act, and you have to remember some of these teams are not doing this all of the time. The contracts may be with one or 2 people and, if they are busy, they may not necessarily realise that they have gone into a breach. So there are a whole range of factors there.

Treasurer of the States:

The approach we would take would be more about future prevention. If we started to see a theme within a department, and it has happened in the past where there were lots of breaches coming through, and in particular breaches, then that would be cause for a conversation to take place regarding tightening of processes at that point. If you started to see deliberate, systematic breaches on a continual basis, then I would escalate that further were that to be required.

Mr. V. Khakhria:

Can I just ask one question on that? Can you give the public some idea of what is happening to the value of these breaches over the years from, say, 2020? Have they been increasing?

Treasurer of the States:

If you choose 2020, we would have had very high value exemptions.

Deputy I. Gardiner:

From 2022.

Treasurer of the States:

I do not know, I would have to look back at that.

Interim Director, Commercial Services:

We would have to look back at that number.

Deputy I. Gardiner:

We will follow up with a written question.

Mr. P. Taylor:

I am going to ask a very basic question, for which I apologise, because I do not really understand. What is the difference between the responsibility of the Commercial Services Department and the departments? Who does what?

Interim Director, Commercial Services:

It is a bit of a mixed picture at the moment, but generally the central team are responsible for setting policy and process. Recording of breaches and exemptions is a good example. Setting policy and procedure, so making sure that the Public Finance Manual is up to date and in accordance with law. We work closely with the Government's team in that area, making sure that our guidance is clear and up-to-date and consistent. That is our sort of policy procedure piece. Then doing corporate contracts, so where there is commonly bought items from across government, we would look to leverage our volume, if it is a volume-based commodity, to ensure better pricing, to make it easy for people to access those contracts. So terms and conditions are agreed and basically they are raising orders against a contract.

[14:00]

It would be for us to make sure it does not go into breach or go over the value. If it does, to do something about it. That is the central role ... it is much bigger than that, but you have asked me that one particular question.

Mr. P. Taylor:

So essentially the accountable officers are responsible. They are responsible for procurement. They have to follow the guidance and advice provided by your department?

Interim Director, Commercial Services:

Correct.

Mr. P. Taylor:

As set out in the Public Finance Manual and any other advice you might want to give, they would be expected to follow it?

Interim Director, Commercial Services:

Exactly.

Mr. P. Taylor:

But when you come to corporate contracts, who negotiates them?

Interim Director, Commercial Services:

If it is a corporate contract, it will be one of the team or part of the team. We would have other members of government involved; who is going to be the main recipient, who is going to use this the most, so key stakeholders, to ensure that we have got the definitions right, that we have got the right goods or services defined. So it would be a collective, collaborative approach in terms of agreeing that contract. We would be responsible for monitoring usage and the relationship with the supplier or suppliers if it is a framework.

Mr. P. Taylor:

Who signs it?

Interim Director, Commercial Services:

We do.

Mr. P. Taylor:

I am not questioning whether it is right, I just want it to know, because I am a bit clearer ... because he is quite accountable really ...

Interim Director, Commercial Services:

That is the corporate contract.

Mr. P. Taylor:

... if my memory serves me right.

Treasurer of the States:

An example would be the fuel ...

Deputy I. Gardiner:

Can I ask for clarification on that one? If a particular company or charity supplies services for 3 different departments, who is managing negotiation because each department has different requirement?

Interim Director, Commercial Services:

That depends, are you talking about a corporate contract?

Mr. P. Taylor:

Yes.

Deputy I. Gardiner:

Yes. You have got 3 departments, one charity supplying services for 3 departments with 3 different requirements.

Treasurer of the States:

That sounds like that is 3 separate ...

Interim Director, Commercial Services:

Three contracts, yes.

Treasurer of the States:

Three separate contracts each negotiated by each of those departments. When we talk about corporate contracts we are talking about, for example, supply of fuel or the ...

Interim Director, Commercial Services:

The managed print.

Treasurer of the States:

... managed print, photocopying, et cetera, where there is sufficient volume across multiple departments and off-scale. If we are talking about supplying sandwiches for 3 different departments, that is not a corporate contract.

Interim Director, Commercial Services:

Some of the professional services contracts as well where we have as it says on the tin really, but we have got contracts for advisers or people who come in ...

Treasurer of the States:

That is in a framework.

Interim Director, Commercial Services:

That is a framework.

Treasurer of the States:

For which you have done the pre-work. But there is still a requirement for a department to get quotes from within that framework.

Interim Director, Commercial Services:

Correct.

Treasurer of the States:

Which is consistent with the level of threshold of the contract that they are trying to let.

Deputy I. Gardiner:

Now, if I am taking back about charity, and I have a couple in mind that work with 2 or 3 departments and they have limited resources, and they need to negotiate their contract with different parts of the Government on an annual base ...

Treasurer of the States:

For the supply. Give us an example of what they are supplying.

Interim Director, Commercial Services:

Are they ...

Deputy I. Gardiner:

They are supplying, for example, medical services, and they can supply across the departments, by the way. It is not always going to the Health; it can go into Education, it can go into the Social Security. Not Social Security, we are talking about employment, housing, whatever. So it can actually be across these 3 departments. So do this, and then, from my understanding, they would not negotiate with your team, they will have 3 negotiations with 3 different departments.

Interim Director, Commercial Services:

They could do that. Or they could ask us to negotiate across 3, 4 or several departments.

Deputy I. Gardiner:

So it depends on the departments?

Interim Director, Commercial Services:

Yes. I mean, it could, I suppose theoretically, for whoever is involved in this, they might actually come to the centre and say: "Could this be done in a different way?" It is a 2-way thing. This particular example, if they felt that they would perhaps benefit from one contract across the 3, there is no harm in coming to the centre to ask and to discuss with us if that is something that could be achieved. That is a communication issue. We are not saying we would not do it.

Deputy I. Gardiner:

But there is no clarity, what is the process in this case?

Interim Director, Commercial Services:

There is.

Treasurer of the States:

I would say there are grey areas in between. This organisation is an incredibly complex organisation with very many, as you will have seen from the number of suppliers registered on our systems that we have provided to you. It is very clear to us where something is most definitely a corporate contract. It is very clear where it is just department specific and there are probably a much smaller number where you could say, is it corporate or is it not corporate? Is it a separate set of services that is being procured by one department as

distinct to a set of services that have been delivered to another department? In the case of fuel or managed print, it is fairly homogenous across, whether than in terms of volume what is being provided across those departments.

Mr. V. Khakhria:

Is there an explicit value threshold for corporate contracts?

Treasurer of the States:

I think value would be taken into account, but not a threshold as such. If it was only by thought to value, then all of a sudden Caroline's team would be procuring ... would be responsible directly for the procurement of, I do not know, the medicines and drugs within Health. That is clearly not a corporate contract because it is a contract that is for the provision of H.C.J. (Health and Care Jersey). So there might be, for example, would ... not personally in favour of having a corporate contract for sandwiches, even though sandwiches is a homogenous project, but largely levels of quality of sandwich. But across departments, you could say that would be a corporate contract. I would clearly say no, that is best level ...

Interim Director, Commercial Services:

We did actually have an arrangement with a number of sandwich providers a long time ago. I am going back a while now, but we just had a framework ...

Mr. P. Taylor:

How many corporate contracts do you have?

Senior Category Manager:

Currently, we have about 20.

Mr. P. Taylor:

They cover things like fuel.

Senior Category Manager:

Yes. As Richard said, fuel, managed print ... I am thinking of the ones that I look after, travel, disposal of confidential waste. So it is, as Richard said, products and services that are used.

Treasurer of the States:

Janitorial supplies.

Senior Category Manager:

Janitorial supplies, the court contract.

Mr. P. Taylor:

Okay, I am just trying to get it clear in my mind. The response we are having, the central contract is in place, the department controls against that contract and they are responsible for making sure that the contract agree that particular purchase is in line with the corporate or complies with the corporate contract, effectively, they just draw down on it.

Interim Director, Commercial Services:

Well, basically they will be given a list of products and services which sit under that agreement and then they can draw down upon those as they see fit by raising orders.

Mr. P. Taylor:

How well does it work?

Interim Director, Commercial Services:

How well does it work? I think it works reasonably well for the commonly bought, clearly defined items. There is always a bit of a grey area. People like it because it is simple, they can get things quickly. Actually, there is probably scope for us to do a few more of those in different areas. It is just capacity at times.

Mr. P. Taylor:

Okay, just one final question on that. Does the contract have an overall spend for a year built in it; the total value for that contract was such-and-such for a year?

Interim Director, Commercial Services:

It is not done like that. If it is over £100,000 we will have tendered it and therefore anything over ... so the value up to over £100,000 we would have tendered anyway.

Treasurer of the States:

If you take the fuel contract, there will be estimates based upon current or historical usage, but obviously if a department is using way more fuel in a particular year then they will spend way more than they would otherwise.

Mr. P. Taylor:

I understand it is quite hard. I am just trying to get a feel for it.

Interim Director, Commercial Services:

Obviously we like to try and get the estimated quantities for such things close because then obviously we are getting a better price, are we not, if we are close in terms of our value and know the volumes? So we use historic data to identify what we think typically the spend would be.

Mr. P. Taylor:

One practical point is probably monitoring the activities of partners in terms of compliance, shall we say. What K.P.I.s (key performance indicators) do you use to monitor the procurement practices of departments?

Interim Director, Commercial Services:

We do not actually have a K.P.I. for each of the departments or ... we are more interested in monitoring the performance of our suppliers. We do not have a league table of ...

Mr. P. Taylor:

Okay, I think you have answered the question. So what K.P.I.s do you use for monitoring suppliers?

Interim Director, Commercial Services:

On-time deliveries, price, making sure the price is maintained, delivery times, specifications. It will be a basket of items, depending on the contract, obviously. Timeliness is the most important criteria, so we would be looking at how quickly people can deliver things. We would be looking for price holds, where we have been out to tender, so how long they are going to hold their prices for. If it is based on volume, then obviously we would be looking at volume thresholds, and if we exceed those thresholds then what is the implication on the contract. There is not really one-size-fits-all. It depends on what you are buying and how you are buying it.

Mr. P. Taylor:

Presumably you would have a different level of monitoring depending on the size of the contract?

Interim Director, Commercial Services:

Yes, and the risk.

Mr. P. Taylor:

Because you cannot monitor thousands of contracts for less than £25,000, it would be impossible to do it.

Interim Director, Commercial Services:

But we would be looking at risk as well. Obviously there will be some contracts which are maybe part of a lifeline service that we would be monitoring more closely than, say, stationery. I use stationery as my go-to.

Mr. P. Taylor:

Okay. Sorry, I am just going to go through my grid sheet. To what extent do you liaise directly with suppliers or does that depend on the size of the contract?

Interim Director, Commercial Services:

It depends on the size of the contract, and it also depends on who is the main user of the contract. I will use I. and E. (Infrastructure and Environment) as an example again. We have a very arm's length liaison or relationship with the suppliers, that is left with the department. The department has the technical and commercial capability of looking after those relationships. Where we are getting contracts centrally, more strategic contracts, we would have relationships with those suppliers and it might be jointly. So working with Digital Services, there are some suppliers there where we would be jointly interested in the relationship and making sure that we are close and understand that the service levels are being met, the people that they are employing are meeting the standard, that they are delivering in accordance with the contract. It does depend on ...

Mr. P. Taylor:

How well do you feel it works? You are allowed to say not as well as you would like.

Interim Director, Commercial Services:

Well it is always a challenge, is it not? A lot of this is about relationships as well, so I would say it works reasonably well. But there are pockets where we just do not have the reach, necessarily, to have the close relationship that some people might expect us to have. If I take Health, for example; Health has got very bespoke requirements and their relationships with N.H.S. (National Health Service) supply chain and others, they hold those relationships probably more than we would centrally. That is not to say we would not be involved if needed.

Mr. P. Taylor:

Now then, just moving on, in terms of procurement officers, shall I call them, there are procurement officers within the departments that are responsible for the procurement and also in your department as well?

Interim Director, Commercial Services:

Yes, we have got the central team. There are a number of people who work within departments who are procurement specialists. If I take I. and E., for example, there is someone who worked for me who is now working in I. and E managing ... doing the procurement effectively at arm's length, but has a good relationship with the centre. There are other areas in Health. I have got 2 people who are working in Health, but they do not do all the procurement in Health. They have a small portfolio.

Mr. P. Taylor:

What sort of training does a procurement officer get? What qualifications do they require? What courses are they supposed to have gone on? I could not be a procurement officer, I would be hopeless.

Interim Director, Commercial Services:

The recognised qualification is the Chartered Institute of Procurement and Supply, and you can do that at various levels. Some of the team are currently working their way through C.I.P.S. (Chartered Institute of Procurement and Supply). It does not necessarily mean that you need to have that qualification.

[14:15]

Good commercial skills, other work experience in other similar environments is helpful. You do have to be numerate and understand. You also have to understand as well the softer side in terms of talking to people around their specification and really getting to grips with what they actually want to buy. So good communication skills, good numeracy, legal; you need to have some legal understanding, particularly in the buying of goods and services, so law. Have I missed anything, Paul?

Senior Category Manager:

No. I think your point about the softer skills because you have an internal audience, which is my colleagues, actually teasing out from them what specification, what they are looking for and there is a different skillset and it is a sub-skillset in actually talking to suppliers and understanding their interest in these. They are quite often quite different.

Interim Director, Commercial Services:

There are the commercial negotiations as well, which sometimes you do have to be a bit Jekyll and Hyde because you are wanting the best for the organisation and the best commercial outcome.

Mr. P. Taylor:

Are there any gaps across the team that you can see?

Interim Director, Commercial Services:

We have got a relatively small team and I would say there are some gaps in some areas. They are sometimes filled by external consultants. We have got some in the digital area, for example, working in Digital Services. That is a particular skillset; digital is one category. I tend to look at this as categories of spend and then what skills you need to have in those. So Digital you need to obviously understand what is happening in the digital world, Health you need to understand N.H.S., how the drug companies work. So you have got to be sector specific. You can be a generalist but we also need people who have ...

Mr. P. Taylor:

Do you have any key person risk where perhaps someone leaves you are then really stuck or have you got a reasonably good pipeline coming through?

Interim Director, Commercial Services:

I would say we are light in some areas and therefore there is a risk.

Mr. P. Taylor:

That would be, or should you not say in these circumstances?

Interim Director, Commercial Services:

Well we tend to cover and we tend to buy in some resource. But there is always a chance that somebody is going to have to cover, and the central team usually cover because we are experienced at doing that.

Mr. P. Taylor:

Okay, so if someone suddenly has a heart attack and they are signed off for 3 months you can cover that situation?

Interim Director, Commercial Services:

Yes, we can. We work with the departments as well because although they may not have official qualifications there are some experienced people working within the departments who have good relationships with their suppliers and are managing contracts. So it is not all down to the central team.

Mr. P. Taylor:

Okay, just a couple more questions. Are our suppliers happy with us? Do they like the way we treat them? Are they satisfied or are they always dissatisfied?

Interim Director, Commercial Services:

I was going to say something, and I should not.

Mr. P. Taylor:

How do you monitor that?

Interim Director, Commercial Services:

I suppose from a supplier perspective, if they are thinking that we are going to be not giving them work because we have had a difficult relationship that might determine how they behave, which is not how we see things. I think that through the surveys that I have seen,

we need to do more reaching out to suppliers, but we are a small team. We need to work more closely with some of our colleagues who have these relationships. I think it is a fine line.

Treasurer of the States:

We also collect customer feedback, in that sense.

Mr. P. Taylor:

You are always trying to improve it really.

Interim Director, Commercial Services:

Well, yes. We do encourage feedback, but not everyone either has the time or wants to give you feedback. We want feedback because that is how we can improve. Sometimes it is disappointing if something has been going on for a while and the first we hear about it is when they are very dissatisfied. But that is just something we need to work on and improve. I think working more closely with the suppliers and getting to understand their pipelines and their challenges will help us improve where it needs to be.

Mr. P. Taylor:

Now, there will be some contracts within a department that are still quite large, which you might not get involved with. To what extent do you get involved in monitoring the performance of a contract that you may not have any central responsibility for? Because it would be quite a large spend going on some of these contracts within the department. To what extent are you able to monitor the performance of those?

Interim Director, Commercial Services:

We do have guidance and best practice in terms of regular reporting that should be done. This is where we become more advisory and expect them to be able to provide information. Occasionally we will attend supply meetings, and that is generally with ... perhaps it may be where a contract is not going particularly well and that is when people ask for support and we will obviously provide that.

Mr. P. Taylor:

So it is more of an informal approach?

Interim Director, Commercial Services:

We do have guidance, do we not, Paul?

Senior Category Manager:

We do provide quite a lot of guidance on our website for our colleagues in terms of supply and contract management. I believe it is very good and Caroline is right, occasionally, speaking from personal experience, when a contract has run perhaps into some challenges we may get asked to go and help just to bring in that experience and expertise that Caroline has referred to in terms to resolve the issue. Generally that is quite successful. But if it is a contract that is totally managed by a department we are not that actively involved in the day-to-day management.

Interim Director, Commercial Services:

No, but occasionally we go in as an independent because sometimes the difficult conversations do not want to be had with someone who they have been working with really closely for a while. So sometimes it is helpful to have someone else go and have a conversation.

Mr. P. Taylor:

One last question, the ferry contract of course received a lot of attention. To what extent was your department involved in that?

Interim Director, Commercial Services:

So Economy were responsible for being involved in dealing with that, had their relationships. We did have 4 people involved during the course of that procurement when it was a joint procurement and when we went separately. We had 4 people, we had Law Officers involvement, we had Commercial involvement, we had Treasury involvement and Procurement.

Mr. P. Taylor:

Putting aside all the media stuff you read, how well do you think it went in terms of process?

Interim Director, Commercial Services:

I think in terms of process, we did it ... it followed best practice and was very thorough.

Deputy R.S. Kovacs:

How was the process managed and co-ordinated across departments from a procurement point of view? How was it managed?

Treasurer of the States:

With the ferry?

Deputy R.S. Kovacs:

Yes, still with the ferry. How was it managed and co-ordinated across departments?

Interim Director, Commercial Services:

The main department that the contract impacted was the Ports and the Economy. Those were the 2 key customers, if you like, or recipients of the service, and we, from a Treasury perspective, from the procurement. So it is a consortium.

Treasurer of the States:

It is more team-based than necessarily formal communication between heads of departments. So the team comes together to service the, in this case, tender rather than procurement for the ferry contract. Rather than looking at boundaries between the departments.

Deputy I. Gardiner:

About the ferry contract, it was not a standard type of procurement because we did not procure services and goods, we procured something that would be paid by ... should pay by itself. When we had the public hearing, we asked what are the best practices around the world that look to create actually the framework for joint procurement of this type? We could not get an answer because it was not. So if I am thinking about it, as Commercial Services, as you mentioned, responsible for policy, procedures, contracts to create this framework, have you had an input and guidance around how you create a joint procurement tender to the Economy Department or it was left to the Economy Department?

Interim Director, Commercial Services:

I do not know if it was a joint agreement, if we are talking about the early stages where it was a joint procurement with Guernsey and Jersey.

Deputy I. Gardiner:

No, who were creating ... to go through the procurement, because it is not a standard procurement, there are other areas and places in the world that have done this type of procurement ... joint procurement between 2 jurisdictions on this type of contract. So it is required to create a framework for joint procurement. Was it your department responsible, as you said, for the policy procedures to create this framework for joint procurement, or you left it with the Economy Department? Who was in charge to create the framework, not the procurement itself?

Treasurer of the States:

When you say a framework, I do not think we created a framework because it is relating to this particular service.

Interim Director, Commercial Services:

I think we are using framework in 2 ways here. The framework agreement is an agreement that is open for ...

Deputy I. Gardiner:

Leave the framework. How do you do joint procurement of these services?

Interim Director, Commercial Services:

Yes, you are asking about the procedure that we went through rather than the framework. Sorry, the terminology is a bit ...

Deputy I. Gardiner:

It does not matter; framework/procedure. Basically, how do you do joint procurement?

Interim Director, Commercial Services:

How did we set ourselves up to jointly procure, is what you are asking about. Well, there were some terms of reference; I am looking to Paul here.

Senior Category Manager:

In terms of reference, there is a procurement strategy that was created by the Department of Economy, which looked to do, as I understand, a joint procurement with ...

Deputy I. Gardiner:

So it was left with the department?

Interim Director, Commercial Services:

Well, the procurement strategy was then signed off by me or by the central team. Procurement strategies are signed off. The actual strategy, which is how they were going to go about this, was defined. The Economy team had input and there was a procurement input and there was commercial input. Again it is a team effort. It is not one person deciding, it is a collective of various disciplines that came together

Deputy I. Gardiner:

Who was responsible that it has gone wrong? So if it is collective, it is collective responsibility?

Treasurer of the States:

No. Ultimately, the A.O. (accountable officer) is accountable. They would have received advice, and that is not me talking about the ferries in particular. Remembering this is not procurement, this is a tender for a service to Islanders rather than procuring specifically for government or for the delivery of services to government. There is a lead, as there is with all, and the accountability rests with accountable officers.

Deputy I. Gardiner:

As you mentioned fuel, and I looked into the Public Accounts Committee report on the fuel farm lease renewal back in 2016. I know that when you ...

Treasurer of the States:

I was talking about fuel, not the fuel farm.

Deputy I. Gardiner:

I will ask about the fuel farm because it is just associated with the fuel farm re-lease and I found this report. Who was responsible for the renewal to run ... was it a tender process run? Is it for the renewal of the fuel farm or who is dealing with it?

Treasurer of the States:

That is I. and E., Infrastructure Department.

Deputy I. Gardiner:

So have you had involvement in it?

Interim Director, Commercial Services:

We have had some involvement.

Deputy I. Gardiner:

Do you know if the Public Accounts Committee recommendations from 2016 were implemented? Was it a tender process, was it a sufficient advertise of the lease? I am just looking through the recommendations.

Treasurer of the States:

So they took advice and extended the existing arrangement.

Deputy I. Gardiner:

So it was no advertising for this coming for renewal and it was no tender process. Okay.

Treasurer of the States:

Yes.

Deputy I. Gardiner:

I am clear. We will move on.

Deputy R.S. Kovacs:

The next area, we are looking at the use of contracted evaluators. As we know, some tender processes require expertise above what we have in-house, but those external evaluators can also raise concerns about conflicts of interest and even scoring and such. Under what circumstances do you appoint external evaluators?

Interim Director, Commercial Services:

We had external evaluators working on the ferry contract. They tend to be the large and more complex ... it is not routinely used. We may bring in people with expertise to sit alongside the team, but I have not used the words "contracted evaluators" until I saw it written down; so yesterday or whenever.

[14:30]

I am not familiar with that term, apart from with the ferry contract we did have expert advice brought in.

Deputy R.S. Kovacs:

The expert advice would be the external evaluator that assures the best value or due diligence or such.

Interim Director, Commercial Services:

Yes.

Deputy R.S. Kovacs:

What would you say is the threshold or complexity that triggers their use?

Interim Director, Commercial Services:

I think it is the complexity and expertise in particular areas where we may not have that specialist knowledge that we would bring in an expert to support the process. We would not contract out the whole of the process, in my experience. We would bring in people or a person who has that experience to help guide and perhaps give some colour and more information for the team to make a decision.

Deputy R.S. Kovacs:

How do you ensure that these external advisers are appropriate and conflict-free?

Interim Director, Commercial Services:

Well, we would run the usual checks on them, so making sure conflicts of interest, previous work, the usual things you do when you are bringing any external into the organisation. It may have a slightly different focus but we have gone through to make sure that they were able and competent to do it and had no conflicts.

Deputy R.S. Kovacs:

How would you say is the consistency maintained when multiple evaluators are involved? Have you had any cases like that?

Interim Director, Commercial Services:

The way we set those up is, if it is a complex tender, you would have different people working on different workstreams which would then be moderated at the end and then there would be a consensus. It can be quite a complex process and I am thinking one of the big complex I.T. (information technology) projects we had the various elements, so knowledge of the software, knowledge of systems, we had people related, we had terms and conditions, so that again is a team effort with bringing in the expertise to make sure. Then also you have got your subject matter experts within the department. If it is to do with a people services-type system you would bring in people from the People Services team to be part of that process but it would not just be a couple of people sitting in a room. It would be a team of people who ... particularly on the more complex.

Deputy R.S. Kovacs:

Because you mentioned before the ferry procurement involving external evaluators, what lessons would you say you will learn from using them in this extended process?

Interim Director, Commercial Services:

I thought it worked really well actually.

Senior Category Manager:

I think it worked well having those external evaluators, because they do come in for the exact reason they were called in for their subject matter expertise, and brought that to the evaluation process that we undertook, both the pan-Island and the Jersey only one. In my experience, it worked well, using the very best skillset.

Interim Director, Commercial Services:

There is less opportunity for bias, even conscious or unconscious, if you are bringing in people who understand the service or the environment or the supply chain. There is some natural bias sometimes which creeps in and having external can just challenge that a little bit.

Deputy R.S. Kovacs:

Now, just more general. From the responses you sent, we did not have time to dive into details, but I can see that for 2023-24 the departmental suppliers spent for procuring goods,

services and works across the government was around £450 million, and from those half were spent for on-Island and about half for off-Island. We received the list of the on-Island suppliers. Are you able to give examples of the most used from off-Island or to compile a list for us the same?

Interim Director, Commercial Services:

Yes, we can do that.

Deputy R.S. Kovacs:

What sort of services were used off-Island and how ... in the future, maybe we can find solutions to use for those kind of services more on-Island?

Interim Director, Commercial Services:

Yes, you are asking for a list of off-Island?

Deputy R.S. Kovacs:

Yes. Can you give now just one or 2 examples of the biggest services that would have to be used off-Island?

Treasurer of the States:

Currently, there will be services provided to the new hospital facilities project. Those skillsets will be particularly around construction of hospital facilities. We do not necessarily have that specialist skill on our hands.

Interim Director, Commercial Services:

I think Health.

Treasurer of the States:

Health, yes.

Interim Director, Commercial Services:

Health generally.

Deputy I. Gardiner:

What Health? Because it is like how many was spend off-Island on procurement?

Deputy R.S. Kovacs:

Off-Island about £215 million.

Treasurer of the States:

So significant. It will be health supplies in the operating theatre, health supplies in terms of medicines.

Interim Director, Commercial Services:

It is all the tertiary care on-Island, off-Island.

Treasurer of the States:

But you will see tertiary care featuring in the top 10 on-Island as well.

Deputy R.S. Kovacs:

It would be useful if you could do a similar ...

Deputy I. Gardiner:

We will follow up with written.

Treasurer of the States:

We are due to publish the top 100 suppliers, and that makes it clear which are on and off-Island suppliers.

Deputy R.S. Kovacs:

Now we will move to the next part on feedback to external tenders.

Mr. V. Khakhria:

Sorry, could I just ask a follow-up question on the evaluators? The question of bringing in external evaluators. Could I just confirm that you mentioned that you had separated into different workstreams. You had one set of people working on one workstream. Would one workstream represent - from the diagram you supplied overnight - just one of these lines on this table here?

Interim Director, Commercial Services:

It could be, yes.

Mr. V. Khakhria:

So typically what you are saying is you would not have different evaluators working on the same line?

Interim Director, Commercial Services:

It depends on the size of the product. You might have two or three working on each of the lines.

Mr. V. Khakhria:

But on separate aspects of each line, is it?

Interim Director, Commercial Services:

Separate aspects, so if you were doing ... you could have an evaluator or evaluators on separate lines; so you could have 2 or 3 separate lines.

Mr. V. Khakhria:

I understand, but you would not have them working in competition with one another effectively?

Interim Director, Commercial Services:

No.

Mr. V. Khakhria:

So you would have the same evaluator working out the same element of each score, so you would have ...

Interim Director, Commercial Services:

Yes.

Mr. V. Khakhria:

Okay. I guess the big question for us is that we understand that with the Guernsey ferry contract we ended up in a situation where we had 2 sets of evaluations or scores. One performed by Jersey and one performed by Guernsey and we came out with different totals

... each Island came out with a different total. I am still scratching my head and trying to work out why, in a well-designed tender process, you could end up with the same objective information providing different scores. If you have the same evaluators working on each aspect, each element of it, they should presumably come up to exactly the same total; it does not make sense to me.

Senior Category Manager:

We had an evaluator in the Guernsey team and the Jersey team looking at a particular workstream, effectively, so that ...

Mr. V. Khakhria:

So you had separate evaluators?

Senior Category Manager:

Effectively, yes.

Interim Director, Commercial Services:

Yes, but working on each of the workstreams.

Mr. V. Khakhria:

So you had one evaluator for each Island on each element of the workstream? So I guess the question needs to be repeated: what input did we take from procurement strategies elsewhere in the world where there have been separate organisations procuring the same product or service? It is a fairly fundamental feature that you would establish what your evaluation criteria and independent evaluators ... the identity of your independent evaluators are in the first place.

Interim Director, Commercial Services:

I think there was. That is why we had independent people looking at this. So we had, was it KPMG?

Mr. V. Khakhria:

Were Guernsey tied to the same evaluators?

Senior Category Manager:

There were separate evaluators in each Island for each workstream, as I understand, with an evaluation criteria set out in the I.T.T. (invitation to tender) document, that I am sure you have seen. So this comes down to individuals effectively.

Treasurer of the States:

To clarify, KPMG were not in round one as an evaluator. They were in the Jersey only round as an evaluator.

Mr. V. Khakhria:

Correct me if I am wrong, joint procurement strategies typically involve, especially high-value ones and more important ones, a single evaluator for each number that adds to the total. You cannot have 2 different evaluators, otherwise you end up in exactly the situation that we are in right now.

Treasurer of the States:

I have got my own views, I am not going to say where I think that happened. It gets into inter-Island and different opinions relating to different entities.

Mr. V. Khakhria:

It is not, this has to do with the architecture of the process. This is purely procedural.

Treasurer of the States:

Perhaps contracting in a single external evaluator might have been, with hindsight, an approach to take but only then if each of the awarding Islands was going to go with that individual external evaluator's assessment.

Mr. V. Khakhria:

But this is best practice from a number of recent examples across Europe.

Treasurer of the States:

I will take your word for it.

Mr. V. Khakhria:

Well, you should not take my word for it. There should be something that is reasonably well-known to commercial services, for example.

Treasurer of the States:

Advice taken, that was professional advice. I think it is entirely possible that different Islands can come up with different conclusions, and that is the way it was ultimately designed.

Mr. V. Khakhria:

I can give examples of ...

Treasurer of the States:

I have views as to how that has happened.

Mr. V. Khakhria:

Can you give any examples of where such an approach has been successful in the past?

Treasurer of the States:

How was the air ambulance done?

Interim Director, Commercial Services:

Air ambulance is still in process.

Treasurer of the States:

But it has been done in the past?

Interim Director, Commercial Services:

It has but that was a while ago, Richard.

Treasurer of the States:

Is it an example of a joint Island ...

Interim Director, Commercial Services:

We have got one ... I am going to use a pun here, it is in-flight. So we have a procurement process in-flight to jointly award the air ambulance service, which is currently in the tender process. Therefore I cannot give you any more details than that because it is in-flight.

Mr. V. Khakhria:

Okay, I understand, thank you.

Mr. P. Taylor:

I am going to be quick. If I put in a tender and do not get it, what happens? What do I get back from the department or from the central team?

Interim Director, Commercial Services:

We invite any unsuccessful tenders for a debrief, which we have with the supplier or the unsuccessful suppliers. We will give them honest, constructive feedback, supported by evidence, such as scoring. We will identify where they did well and where they could have done better.

Mr. P. Taylor:

Okay. Is that the same whether it is a small contract or a big contract?

Interim Director, Commercial Services:

Yes, it should be.

Mr. P. Taylor:

Can I appeal against your decision?

Interim Director, Commercial Services:

You can raise a concern but it depends where we are in the process. We generally give them feedback once we have picked the supplier. I suppose the hard answer is no, but you can definitely give us feedback and, if it was a very strong concern, then I suppose we would seek legal advice as to whether that was worthy of consideration.

Mr. P. Taylor:

So feedback can go both ways?

Interim Director, Commercial Services:

Of course.

Mr. P. Taylor:

If I give the advice of the unsuccessful supplier, and I think I have been badly treated and I say so, is that going to affect my future possibilities for winning work? Is it going to be held against me?

Interim Director, Commercial Services:

No.

Mr. P. Taylor:

Thank you. We can move on now.

Mr. V. Khakhria:

Okay, the question subject area is future plans for procurement thresholds. I noticed that you have answered quite a lot of the questions that we were planning to ask in the document you sent overnight, which I received at about 10 o'clock this morning, so I have not had a chance to go through it in a huge amount of detail. A couple of things I noticed were that the ... as we understand it at present, although it has not been confirmed, one of the proposed thresholds is to raise the £25,000 threshold to £75,000 on the basis that it has been fixed since 2006. Since which time there has been an 83 per cent increase in R.P.I. (retail price index), according to your document, which means roughly a doubling of it, not a tripling of it. I was just wondering what the thought process was behind that.

Interim Director, Commercial Services:

So, the £75,000, I do not know where that has come from actually, because we are still working through.

[14:45]

There has been a piece of work done - a very detailed piece of work - by the team, with input from various internal parts of the organisation. We are still working through that. I do not know where the £75,000 has come from. As I say, we are still working through what those thresholds may be. Currently we are working with the current thresholds. There is a very, very detailed piece of work which we need to kind of sense check in the real world in terms of ... and there is some work being done in terms of if we were to reduce it, for example, to the lower threshold is ... if we brought the threshold down from £25,000 to £10,000, for example, what would be the impact? Now, the impact may be that, and we

have not done this piece of work ... and we do that across the board. It may be that local suppliers, when we get some of this feedback is they find it onerous to bid for work because our tender thresholds require lots and lots of information, big documents. That may unlock more opportunities for local suppliers. So we are just doing a bit more work on what has already been a very thorough piece of work from my team. But we have not agreed yet.

Mr. V. Khakhria:

I understand that. Are you consulting in that case with local businesses on these thresholds?

Interim Director, Commercial Services:

That is potentially our next step because obviously we are doing it theoretically. My comment around local businesses might want to do this, I have not tested that yet with the local businesses. They might go they are not interested in under £10,000 or whatever it might be.

Mr. V. Khakhria:

Understood. To what extent are you employing or contemplating employing A.I. (artificial intelligence) for procurement processes?

Interim Director, Commercial Services:

That would be good, would it not? Interestingly enough, we have not got any firm written down plans yet, but some of the team are using it for some of their analysis. So we are using it alongside what I would call traditional methods. But we are not discounting it at all.

Mr. V. Khakhria:

Are you using it at all or contemplating its use in terms of fraud and circumvention detection?

Interim Director, Commercial Services:

That is probably a very good area for it to be used, but I have not got any substance in that. I am just going on what I think. It seems to be the way it is going, and certainly in all the literature around procurements and commercial there is always reference to the use of A.I. in those circumstances.

Mr. V. Khakhria:

Okay, thank you. Just one related question, which I think actually applies to government as a whole, which is that we have been through a period of high inflation, we are in higher than recent years inflation certainly even now. How do you factor inflation? I noticed, for example, that the vast majority by value of breaches, for example in digital in particular, have been to do with contract variations of greater than 10 per cent that have not gone through the appropriate procedures. Some of this may be to do with inflation, some of this may be to do with genuine productivity reductions, and I think that is the point that applies across all of government. How are you disentangling inflation from productivity?

Interim Director, Commercial Services:

I think that is something that we, certainly through the thresholds and certainly through the piece of work you have mentioned, need to consider. I am not actually considering it just now, but it is certainly ... we have got people on the economics team who can help us do that.

Mr. V. Khakhria:

Okay, thank you.

Deputy I. Gardiner:

How generally do you make a decision what needs to be delivered within the Government, like within the States of Jersey, Government of Jersey as a service, and what needs to be outsourced? Is there any guidance? So how the decision is made what to outsource and what to have to do in-house.

Interim Director, Commercial Services:

So outsourcing services?

Deputy I. Gardiner:

So it is to procure services or to deliver this in-house.

Interim Director, Commercial Services:

That really comes down to the initial part when we are looking at the procurement strategy. When you are setting out to decide whether it is a make or buy decision, you would look at all the factors and decide whether it is better to do it in-house or whether there is a market

and whether there is an appetite for, and would it make sense to outsource. It is on a case-by-case basis.

Mr. V. Khakhria:

Are there any circumstances in which you would make a decision to make rather than buy a service in direct competition with the local market if, for example, you felt that there were super profits available? It was something that you could achieve very substantial cost savings even though it may be harmful to the local market ... to local providers.

Treasurer of the States:

So that tension is ... one, for example, would be professional services.

Mr. V. Khakhria:

Possibly.

Treasurer of the States:

We currently have a high reliance upon professional services contracts with local suppliers and off-Island suppliers. Often that is driven by lack of capability or capacity, more often both together in terms of certain skillsets, so we have it in procurement specialists, but we might have it in ... we do have it in programme management, for example, and in certain skills required by M. and D. (Modernisation and Digital). We know that if we were able to hire them directly, we would more likely than not achieve a cost saving. But we have significant challenges to be able to recruit them. So then you have to get into a strategy of growing your own as it is creating your own market. That might be something we are looking to do in terms of procurement specialisms, and it is something we are actively looking to do on programme management, for example.

Mr. V. Khakhria:

Okay, so those are specialist professional skills. What about something more sort of generic, something like, for example, recruitment skills for just ordinary, general staff, general headcount?

Treasurer of the States:

Firstly, we will use agencies to recruit. Sometimes that will relate to whatever the specific role is and whether you are needing to access markets that your in-house team cannot

necessarily access as easily. You might have jobs that are difficult to recruit to and therefore you would use specialists in that particular area where your economies of scale say it is not worth your while for the number of recruitments you have, to build your own team in, for example, to headhunt international tax specialists.

Mr. V. Khakhria:

Okay, so for off-Island people. For on-Island people?

Treasurer of the States:

On-island people are not ... probably mostly direct recruitment.

Mr. V. Khakhria:

You do that directly already, anyway. Okay. Thank you.

Deputy I. Gardiner:

Thank you for supplying examples of the procurement strategies, and we have seen the difference that some contracts have 5 per cent, some contracts have 10 per cent, so it is not consistent. I would like to understand how you determine the level of the social value for particular procurement.

Interim Director, Commercial Services:

So, in the response, actually, we have just set it at 10 per cent. It was 5 per cent, it is 10 per cent for all social value.

Deputy I. Gardiner:

The procurement structure that you supplied to the P.A.C. (Public Accounts Committee), which was this year, we have 5 and 10 in difference.

Interim Director, Commercial Services:

But it is now 10.

Deputy I. Gardiner:

From now on it will be flat 10.

Treasurer of the States:

The default is 10, unless someone comes up with a very good case for it not to be.

Deputy I. Gardiner:

So what can be the case not to be 10?

Treasurer of the States:

Our answer says that there might be a good argument made, I am not ...

Deputy I. Gardiner:

Just an example.

Treasurer of the States:

Flexibility, I am not really inclined to say that there would be.

Interim Director, Commercial Services:

I am just trying to think if I have got an example, but not off the top of my head. We think 10 per cent is a reasonable proportionate out of the 90 points that are there.

Deputy I. Gardiner:

No, my question was because we have seen different procurement strategies and contracts for small contracts, not big contracts.

Interim Director, Commercial Services:

Yes, we have clarified that, so it is 10 per cent.

Deputy R.S. Kovacs:

Still regarding for the social value policies, how is that communicated to suppliers? Is the tender document clearly outlining the scoring and outlines the expectation?

Interim Director, Commercial Services:

Yes. It will vary depending on the goods and services that are being provided.

Deputy I. Gardiner:

Would the local suppliers receive extra points for being local suppliers and paying actually into the system as a social value contribution?

Interim Director, Commercial Services:

Not directly, but potentially indirectly.

Deputy I. Gardiner:

What does that mean?

Interim Director, Commercial Services:

So the economic value of them being on-Island would be brought into perhaps some of the other scoring, the other 90 points.

Deputy I. Gardiner:

Would you have a special line to actually get the extra one, 2 points, whatever it is, for their scoring, to raise their contribution into the income?

Senior Category Manager:

I think that most likely would be covered in the social value 10 per cent. For example, we might be looking at certain parentheses and people employed back to work, effectively. That is one of the lines in the social value.

Deputy I. Gardiner:

No, what I am talking about when you rewrote the contract to people, it is not necessary for apprentices. I understand the apprentices' social value. But the people ... this particular local company will pay to the employers and they will pay taxes, which we will see in annual reports and accounts come in as an income. When we will pay to the U.K.-based companies, the taxes will go to the U.K. So the contribution, the public funds, will not come back for the public use. So would the local companies have a line to get extra points as their contribution to the Island economy?

Interim Director, Commercial Services:

I would not see it as an extra line, I would see it is part of their bid, an overall bid.

Deputy I. Gardiner:

Okay, I understand.

Interim Director, Commercial Services:

So the quality of their bid, it would come through in that as opposed to a particular percentage.

Mr. V. Khakhria:

How would it be scored though? Supposing we have a vanilla contract, I do not know what it might be. It could, for example, even be the travel contract, the corporate travel contract that you guys have. It could be a local agency over here. It could be a U.K. or further afield agency for a similar sort of value and they both come in, what would be ... they score identically on every other point, save for one is on-Island and one is off-Island and then value is our variable. What variation in value would cause you to appoint it to the local company over the mainland company or non-Island company? What is that variable there?

Interim Director, Commercial Services:

I think we would have to take that ... I think currently as it stands we do not have a positive weighting for on-Island. However that is not to say we are not looking at it. Part of the reason we have not is because we are under the World Trade Organisation and a number of other bodies, which I think you will have seen in the pack. We are just looking towards the U.K. actually. The Cabinet Office have a new way of incorporating objectivity into enabling economic value to come through if it is on-Island. We can actually target and have particular procurements which are for on-Island only. But we are just at the very beginnings of that. As you can probably tell, I am not very polished on how I have just described that.

Mr. V Khakhria:

Sorry, if I could just ask one quick question. There have always been thresholds under the W.T.O. (World Trade Organisation) rules, which are the ones that flow through into all of the other trade regulations. What are the current thresholds, below which you do not need to consider off-Island bids by law?

Interim Director, Commercial Services:

For here?

Mr. V. Khakhria:

For the U.K., because we follow the U.K., I guess.

Interim Director, Commercial Services:

We follow the U.K., but it is not just the value.

Mr. V. Khakhria:

So there are no value thresholds for where procurement routes are prescribed by law?

Interim Director, Commercial Services:

Yes, there are, and we have our own.

Mr. V. Khakhria:

Separate from the ... and what are our thresholds then?

Interim Director, Commercial Services:

£100,000.

Mr. V. Khakhria:

£100,000 by law?

Interim Director, Commercial Services:

Yes.

Treasurer of the States:

That is not about relating to local entities.

Interim Director, Commercial Services:

No. That is just general thresholds for tender.

Treasurer of the States:

But that is not what the question was.

Interim Director, Commercial Services:

Sorry.

Mr. V. Khakhria:

I am asking for the local versus non-local thresholds.

Interim Director, Commercial Services:

We do not have local, non-local.

Mr. V. Khakhria:

What are the ones that we are obliged to follow under the W.T.O. rules?

Interim Director, Commercial Services:

I cannot remember the values, can you, Paul?

Senior Category Manager:

No, I cannot. That is to do with not getting preferential treatment effectively.

Mr. V. Khakhria:

Yes, that is right. Do you know what those thresholds are?

[15:00]

Senior Category Manager:

Not off the top of my head, no, I do not.

Mr. V. Khakhria:

So when you give consideration to the use of local contracts as opposed to non-local contracts, will you be having regard to those thresholds and making sure that as many contracts as possible can be made on-Island subject to those thresholds?

Interim Director, Commercial Services:

We will look at that.

Mr. V. Khakhria:

Okay, thank you.

Deputy R.S. Kovacs:

I just want to clarify that because you mentioned the U.K., how closely the procurement guidelines are following the external best practices, like from the U.K. National Audit Office or Crown Commercial Services? Are those incorporated in our practices for procurement?

Interim Director, Commercial Services:

They are broadly, yes. So the thresholds tendering process is very similar. We do have a bit more flexibility. The Cabinet Office are just rewriting theirs based on not being part of Brexit, which has taken a while. I am reviewing those. I am also reviewing the National Audit Office recommendations, but we are looking at both of those at the moment.

Mr. P. Taylor:

I have got one off-piste question. To what extent are you getting involved in the procurement activities of arm's-length organisations? If we say the Financial Services Commission, for example, or Jersey Telecom, do they consult you? Do they consult you? Do you get involved in what their activities are? This is background information.

Interim Director, Commercial Services:

No.

Deputy I. Gardiner:

So they are doing their own thing?

Interim Director, Commercial Services:

They do their own.

Mr. P. Taylor:

They do their own thing?

Interim Director, Commercial Services:

Yes.

Deputy I. Gardiner:

Okay. Thank you. Anything else?

Deputy R.S. Kovacs:

Just the last part, do you conduct structured post-procurement value for money reviews and can you share any important lesson learns that you came across doing that?

Interim Director, Commercial Services:

I think we can ... are you asking for some information back?

Deputy R.S. Kovacs:

Do you do some sort of reviews post-procurement for value for money and have you had any important lessons learned doing that?

Interim Director, Commercial Services:

We do have some lessons learned, yes. The problem - not problem - but the way we are structured is we do not necessarily see all of the procurements that are happening and know exactly how they have gone or what has gone well or what has not gone well. We tend to know the ones that have not gone well, or where we have had to give advice, or the ones that have gone well, or it has been a reasonable job, everything has been delivered. So we tend to only need to get involved in the ones which perhaps did not go so well. But that is largely down to resource, I would say.

Deputy I. Gardiner:

Any more questions from anyone? Sorry, we are 5 minutes over. Thank you very much. Thank you for your great answers and thank you for your time. We are looking forward for the development of the procurement practices. As you said, there is a lot of work in progress. Thank you. The public hearing is closed.

[15:03]