

# Matters Relevant to a Contract with South Pacific Cruise Lines Ltd

## Department of Employment, Education, Training and Youth Affairs

© Commonwealth  
of Australia 1997

ISSN 1036-7632

ISBN 0 644 39072 7

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Australian National Audit Office. Requests and inquiries concerning reproduction and rights should be addressed to the Publications Manager, Australian National Audit Office, GPO Box 707, Canberra ACT 2601.

Canberra ACT

15 December 1997

Dear Madam President

Dear Mr Speaker

In accordance with the authority contained in the *Audit Act 1901*, the Australian National Audit Office has undertaken a performance audit in the Department of Employment Education Training and Youth Affairs. I present this report and the accompanying brochure to the Parliament. The report

is titled *Matters Relevant to a Contract with South Pacific Cruise Lines Ltd.*

Yours sincerely  
P. J. Barrett  
Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

### **Audit Team**

Rod Nicholas

Sally Johnson

Anne Weeden

Malisa Golightly

AMSA	Australian Maritime Safety Authority
ANAO	Australian National Audit Office
ANTA	Australian National Training Authority
APS	Australian Public Service
ASC	Australian Securities Commission
CES	Commonwealth Employment Service
Core LMP Guidelines	Contained in the DEETYA CES Manual, the Labour Market Programs Core Manual provides directions to be followed by DEETYA officers
DEETYA	Department of Employment, Education, Training and Youth Affairs

EAA	Employment Assistance Australia
LMP	Labour Market Programs - to assist unemployed people into employment through the provision of services to job seekers and employers
LTU	Long-Term Unemployed
MAB/MIAC	Management Advisory Board/Management Improvement Advisory Committee
MPIS	Major Projects Incentive Scheme
NWO	New Work Opportunities
PEPE Ltd	Public Employment Placement Enterprise Ltd
SMFI	Secretary's Management and Finance Instruction
SPCL	South Pacific Cruise Lines Ltd
TEP	Training for Employment Program - to assist eligible job seekers gain unsubsidised or subsidised employment through the provision or enhancement of vocational skills
TEP guidelines	Contained in the DEETYA CES Manual, the Training for Employment Program chapter provides directions to be followed by DEETYA officers
WA2000	William Angliss 2000 Pty Ltd

## Summary and Recommendations

### Background

1. On 16 May 1997 the Department of Employment, Education, Training and Youth Affairs (DEETYA) entered into a formal agreement with South Pacific Cruise Lines Ltd (SPCL) for the delivery of a ten-week program of pre-employment training for 340 long-term unemployed persons and the subsequent employment with SPCL of all successful participants. Under this contract, the pre-employment training was to be sub-contracted to William

Angliss 2000 Pty Ltd (WA2000), a Melbourne-based subsidiary of the William Angliss Institute of TAFE.

2. The original contract covered the period 23 June 1997 to 29 August 1997 and was later varied to extend this period to 12 September 1997. The contract price was approximately \$2.8m and DEETYA paid around \$2.2m (80 per cent) to SPCL in advance of the commencement of training. The balance was to be paid once 70 per cent of participants had been in continuous employment for a period of six weeks.

3. The training was delivered during the contract period and on 5 September 1997, SPCL advised the Department that it would offer a traineeship to at least 264 trainees. The trainees would commence employment with SPCL on 15 September 1997. However, on 10 September 1997, SPCL issued a press release announcing that it was abandoning the cruise line project, citing the withdrawal of key financial backers due to adverse media and political interest. The Department immediately terminated the contract with SPCL and took action in an endeavour to protect any remaining Commonwealth funds held by SPCL.

4. On 12 September 1997, the then Minister for Employment, Education, Training and Youth Affairs asked the Secretary of DEETYA to refer the SPCL contract to the Auditor-General for investigation. The Minister's media release stated that 'the Department has provided a number of briefings on the matter, but I am not satisfied that they fully answer the concerns I have raised'. The Minister expressed particular concern about receiving incorrect advice about the accredited status of the training provided under the contract.

5. The Auditor-General agreed to the Secretary's request on 17 September 1997 and an audit, under the efficiency audit provisions of the *Audit Act 1901*, commenced the next day.

## **Audit objective**

6. The objective of the audit was to review the efficiency, economy and administrative effectiveness of departmental activities leading to the letting of the contract with SPCL and its subsequent administration. This has included, among other things, an examination of action taken to protect the Commonwealth's interests and the adequacy of relevant departmental guidelines and processes.

7. A primary aim of the audit was to identify the facts of the particular case, including any administrative inadequacies that led to unnecessary financial exposure for the Commonwealth and less than satisfactory outcomes. In

particular, the audit aimed to identify elements of better practice that could be followed under similar circumstances or programs in the future.

## **Audit approach**

8. The audit has involved an intensive review of departmental documentation concerning the contract and its management. Interviews have taken place with key departmental officers and with other Commonwealth agencies involved.

9. In view of the legal action that has been initiated by the Department against SPCL, a related company, and WA2000, contact by the ANAO with those bodies has been limited. The legal representatives of SPCL have requested that any contact be in the form of specific written questions. The ANAO has had discussions with senior officers of WA2000.

10. All parties were offered the opportunity to comment on the proposed report in accordance with the requirements of the Audit Act and 'natural justice' considerations. This report has had regard to the comments received. Where appropriate, the comments have been included in the report.

11. The ANAO engaged the services of appropriate outside expertise to provide supplementary assistance in undertaking a 'due diligence/probity' review of South Pacific Cruise Lines Ltd and its (then) parent organisation Chancellor Group Inc. As well, the ANAO considered there may be advantage in developing better practice guidelines on financial risk assessment procedures. The consultants have provided advice on this matter. The ANAO is continuing with the latter task and will provide the resultant guidance material to relevant APS Departments and agencies for comment early in 1998.

## **A brief description of events**

12. This section briefly summarises the events based on the information gained through the conduct of the audit. This description is essentially a chronology and does not expand or comment upon events. Its purpose is to provide background to the audit conclusion which follows this section. A more detailed description of events is contained in Chapter 2 and the detailed audit findings are contained in the remaining chapters of this report.

13. SPCL was a recently established company which aimed to set up a cruise ship operation, berthed in Brisbane and staffed by Australians.

14. The agreement between DEETYA and SPCL was the product of a series of discussions and negotiations between DEETYA (initially National Office in Canberra and subsequently the Area Central Office in Brisbane), SPCL and

WA2000. DEETYA had been introduced to SPCL by WA2000, a training provider involved in a number of training/employment agreements with the Department. DEETYA negotiated predominantly with WA2000. It had been originally intended that WA2000 would be the contracted party. However, in a last minute change, prompted by SPCL, the contract was formalised with SPCL. The request to change the contract from WA2000 to SPCL was received and agreed to in the final nine days leading to the signing of the contract.

**15.** The contract required SPCL to deliver a program of training leading to qualifications in the form of a Certificate of Hospitality (Cruise Ship Operations) which could be recognised as progress towards a diploma, associate diploma or degree. The contract included the proviso that SPCL would sub-contract the management and delivery of the program to WA2000. There would be ten weeks of training - eight weeks land-based and two weeks at sea. At the conclusion of the training all successful participants would be employed by SPCL under a twelve month supervised traineeship. The course was to be customised by WA2000 for SPCL. Details of accreditation were to be supplied at a later date. The total consideration was around \$2.8m, at a cost per participant (unit cost) of \$8,220. These details were contained in a Labour Market Program Proposal form, completed by WA2000, which was attached to a standard DEETYA agreement.

**16.** The contract initially covered a ten-week period from 23 June 1997 to 29 August 1997. Training was to commence (and did) on 23 June 1997.

**17.** Around 11 June 1997, adverse media reports began to appear (predominantly in Queensland) concerning the uncertainty of the SPCL cruise ship venture. SPCL had applied to the Queensland Government for assistance under the Major Projects Incentive Scheme, and some funds had been allocated for matters associated with the application. Mention was made in the media that the principals of SPCL were former bankrupts and there was no ship available to the company. Most of these reports were directed against State Government involvement and the Queensland Minister for Tourism. They made no reference to DEETYA. At that stage, DEETYA was unaware of the background of SPCL or its company directors.

**18.** The Department immediately initiated checks through the Australian Securities Commission (ASC) into the company and its directors. It was established that two of the company directors were discharged bankrupts. One of these directors was also the CEO. Although the information available from the ASC was limited, because SPCL had only been listed since December 1996, the ASC did not report adversely on SPCL. This was the first time the Department undertook checks on SPCL, for example, to establish financial

viability. At that stage, the Department had not contacted the Queensland Government to discuss issues of mutual interest.

**19.** DEETYA's first advice specifically on the SPCL contract was provided to the Minister's Office on 12 June 1997. The briefing offered background to the project and the recruitment activities and discussed, as an important issue, why SPCL was awarded the contract. The briefing also included the advice that 'finance checks made in respect of the company did not reveal any irregularities'.

**20.** The Department advised the Minister on 17 June 1997 (in a response to a possible Parliamentary question), and in subsequent briefings, that all successful participants in the project would receive 'a certificate of accreditation in the hospitality industry'. This information was not correct as at that stage the **course** was not accredited although the modules, with the exception of one, were nationally accredited. The Minister was advised on 11 September 1997 that this information was incorrect. The course was not accredited until 26 September 1997.

**21.** Later in June 1997 the Department undertook an internal review into the letting of the contract. The review concluded that a number of contraventions of the guidelines had occurred but 'there was no evidence to suggest the project was in jeopardy'. Contact with both SPCL and WA2000 assured the Department that the project was proceeding to schedule. Nevertheless, the review raised concerns about the cost of the training and the management processes, particularly between the contractor and sub-contractor. Of further significance was the issue of whether a vessel had actually been leased for the cruise ship operations. Notwithstanding assurances from SPCL that finalisation of negotiations to lease a vessel was imminent, DEETYA pursued this issue with SPCL. Early in July SPCL issued a media release that gave details of a vessel, and a sailing schedule but had still not provided DEETYA with any substantive evidence of a lease.

**22.** In mid-August 1997 further media coverage again raised the profile of the project. Questions were raised about the security of the Commonwealth's investment in the project and about the accreditation status of the training, including its subsequent value to participants. Around the same time SPCL requested, and was granted, a two-week extension to the contract period (at no additional cost to the Commonwealth) to enable the trainees to complete essential safety training prior to travelling to Singapore to familiarise themselves with the vessel and sail it back to Australia. The Department agreed subject to the provision of evidence as to the lease of a vessel. Although some documentation was provided at that time, it was not submitted to the Department's Legal Group for checking. There has since been some

concern that the documentation did not adequately substantiate the existence of a lease.

**23.** The Department briefed the Minister on 1 September 1997 that, in their view, the project was essentially running as planned and there was a strong likelihood that the expected employment outcomes would be achieved. The Minister was advised that some matters required further investigation and that another review of the project and its administration, focussing on financial matters and possible fraudulent activity, would be urgently undertaken by DEETYA Internal Audit. Moves were also made to tighten departmental management processes.

**24.** On 5 September 1997 SPCL advised the Department that it would offer jobs to at least 264 trainees who would commence employment on 15 September 1997. An article in a Queensland newspaper on 6 September 1997 advised that SPCL was taking bookings for a 'preview cruise' on their 'boutique liner' *MS Alloura* departing Cairns on 14 October 1997.

**25.** However, on 10 September 1997, SPCL issued a press release announcing that it was abandoning the cruise line project, citing the withdrawal of financial backers because of adverse media and political interest. The Department immediately terminated the contract with SPCL and took action in an endeavour to protect any remaining Commonwealth funds held by SPCL. This involved legal proceedings that were later extended to include WA2000. The legal proceedings against WA2000 have since been discontinued but proceedings against SPCL are still underway.

**26.** On 12 September 1997 the then Minister for Employment, Education, Training and Youth Affairs announced in a media release that she had asked the Secretary of DEETYA to refer the SPCL contract to the Auditor-General for investigation. The Minister's media release stated that 'the Department has provided a number of briefings on the matter, but I am not satisfied that they fully answer the concerns I have raised'. The Minister expressed particular concern about receiving incorrect advice about the accredited status of the training provided under the contract.

**27.** The Auditor-General agreed to the Secretary's request on 17 September 1997 and an audit, under the efficiency audit provisions of the *Audit Act 1901*, commenced the next day.

**28.** On 1 October 1997 the Senate Employment, Education and Training Legislation Committee conducted a hearing to discuss the SPCL contract. DEETYA provided the Committee a detailed account of the development and administration of the cruise ship project and acknowledged that there had been



serious management deficiencies and that Commonwealth funds had been put at unacceptable risk.

29. An overview of the financial elements of the contract is provided at Figure 1 at the end of this summary. An overview of the outcomes of the pre-employment training is at Figure 2 immediately following.

## **Audit conclusion**

30. The ANAO concludes that the prevailing climate within the Department at the time that the cruise ship project was proposed had a significant influence upon the assessment and administration of the project. In the Department's view, the project represented a major training and employment initiative. The project had been introduced to the Department through the National Office and was assumed by DEETYA Queensland to be endorsed at that level. The major proponent was a respected national training organisation (which, it was assumed, vouched for the employer). There was also some pressure to maintain program expenditure towards the end of the financial year. This project offered a guaranteed employment outcome for all successful trainees.

31. The project, which offered quality training linked to high employment outcomes (in line with the Government's policy) for some of the most disadvantaged unemployed clients, was clearly attractive and its prospects potentially significant. These factors also undoubtedly influenced the Department's consideration of the proposal.

32. The ANAO recognises that an increasing emphasis on outcomes has been a key factor in enhancing the efficiency and effectiveness of the public sector. However, sound administrative processes and effective management are also critical to sustaining long-term performance. In these regards, the Department did not:

- adequately assess the cruise line proposal, in particular to determine whether it offered good value for money to the Commonwealth;
- adequately apply accepted risk management practices to the cruise line proposal/project;
- develop a contract that clearly specified what was to be delivered and the outcomes to be achieved; or
- adequately manage the subsequent administration and oversight of the contract with SPCL (up to the date of the termination of the contract).

33. As a result of the Department's shortcomings, the Commonwealth has been unnecessarily exposed to a significant level of risk and the possible misdirection of program funds.

**34.** As well, the last minute decision to 'transfer ownership' of the contract to SPCL was not well documented and, in the ANAO's view, ill advised. Legal advice on the 'transfer' was not sought and financial viability checks on the contractor were not undertaken prior to awarding the contract or making the advance payment.

**35.** Further, the Department failed to provide full, candid and, in a significant instance, timely briefings to the then Minister in relation to the SPCL contract. This has had consequences for the accountability of the Department and the then Minister and contributed to the adverse media and political impact surrounding both the contract and the collapse of the cruise line venture. The ANAO acknowledges that DEETYA provided a detailed account of the development and administration of the cruise ship project to the Senate Legislation Committee in the course of a number of hearings that have referenced the project (particularly a special hearing convened to consider the project on 1 October 1997).

**36.** Notwithstanding the above concerns, the Department has provided substantial and significant training, at a now accredited and industry accepted level, to more than 300 long-term unemployed persons. This is a valuable outcome of the project, even though well short of not the outcome expected by either the participants or the Department.

**37.** As well as assisting with the delivery of the training, the Department also successfully coordinated the selection and organisation of a large number of unemployed clients against a very tight timeframe (more than 2,000 unemployed persons were interviewed and tested for suitability over a two-three week period). The logistical demands on the Department at this stage of the project should not be underestimated.

**38.** The ANAO has not had the opportunity to consider, in depth, whether the underlying problems identified in this audit are widespread within DEETYA Queensland (which was responsible for managing the contract) or more generally within the Department. However, while the circumstances of the specific contract audited seem extraordinary, there are strong indications that some of the practices highlighted may be commonplace. The ANAO considers this warrants further review by the Department.

**39.** As indicated above, the ANAO commissioned appropriate outside expertise to undertake an investigation of SPCL and its (then) parent organisation Chancellor Group Inc. using material that was publicly accessible. This investigation was in the nature of the due diligence checks the Department itself could have undertaken. Such checks are commonly used to provide assurance as to the credibility, financial viability and service capability

of a company before entering into a significant contractual arrangement. Although the sources are somewhat limited (because SPCL was a recently established company) sufficient information has been obtained, at relatively little effort or expense, to indicate that SPCL represented a 'high risk' business venture.

**40.** Prudent management would suggest that the Department should have at least undertaken these checks. In particular, in taking a decision to continue to pursue the cruise ship proposal, significant additional safeguards should have been incorporated in the contract and its management to protect the Commonwealth's interests. At the very least, the ANAO considers checks should have been made of the financial and other capacities of the contractor's ability to complete the terms of the contract successfully.

**41.** Some of the issues raised in this report are relevant to the broader APS. These issues are discussed briefly in the final chapter of the report.

## **Key findings**

### ***The departmental environment***

**42.** The events surrounding the negotiation and administration of the contract occurred at a time of considerable change in the Department, including the loss of experienced staff as a result of service delivery reforms. In particular, DEETYA Queensland's Programs Area faced a staff reduction of around 20 per cent. With many of the Labour Market Programs concluding in 1997-98, including the Training for Employment Program (TEP) from which the cruise ship project was funded, there was a strong focus on completing current work and committing remaining program funds to new projects prior to the end of the financial year. This had a significant influence on the Department's decision to proceed with the proposal as did the knowledge that DEETYA Queensland was behind in meeting its employment outcome and expenditure targets established as part of the Department's performance information regime.

### ***Documentation***

**43.** Inadequate documentation of the management of the project has hampered the ANAO's investigations. The Department's Internal Audit Branch also acknowledged the limited nature of the documentation in a report resulting from its review of the project. In particular, there was little documentation of some important developments that were handled by telephone or electronic mail. As well, records were not made of the outcomes of some key meetings. Further, the available documentation often shows little evidence of the manner

in which the issues raised in the documentation were dealt with by the officers involved.

### ***The role of the Department***

44. The ANAO considered whether the role and level of involvement of key departmental officers were appropriate to the changing circumstances. It was appropriate to administer the project through DEETYA Queensland and the initial involvement of National Office was also appropriate. However, the lack of experience of some officers in contractual negotiations and management has, in the ANAO's opinion, contributed to some of the more critical administrative breakdowns. So, too, was the failure of both the Queensland and National Offices to follow-up the implementation of internal recommendations aimed at addressing concerns for the safe-guarding of the program funds.

45. Also of significance, however, was the failure of DEETYA Queensland to manage the contract effectively as a public project, with appropriate delineation of responsibilities, tasks and deadlines including due consideration for accountability (involving, for example, analysis and assessment of risk). The ANAO considers that a proposal of this nature and significance required sound project management from the outset. This would have ensured that many of the departmental breakdowns would have been avoided.

### ***Assessment of the proposal***

46. The ANAO considered whether the proposal submitted by WA2000 on behalf of the Chancellor Group/South Pacific Cruise Lines was adequately analysed and assessed by the Department. It is considered that the proposal met the overall scope and objectives of the DEETYA Labour Market Programs (specifically, the Training for Employment Program). However, at the stage when it was recommended for in-principle approval, the proposal was not sufficiently clear on many key issues, including the training proposed, its accreditation status, delivery mechanisms, cost and expected outcomes. Notwithstanding action by departmental officers to follow-up on these issues, they still remained unclear at the time the proposal was included in the formal contract. Further, the assessment failed to consider the capacity of the contractor (whether it was WA2000 or SPCL) to deliver the employment outcomes proposed.

### ***Developing and awarding the contract***

47. The ANAO assessed processes surrounding the development and awarding of the contract. Although based substantially on a standard TEP agreement, the contract was unclear on critical aspects such as the services to

be delivered and the outcomes to be achieved. Accountability and performance arrangements and requirements specifically tailored for the project were not included. As well, the relationship between the contractor and sub-contractor (that is, SPCL and WA2000 respectively) was not adequately defined. The ANAO considers that the contract was poorly constructed. In particular the following factors demonstrate this:

- The last minute decision to contract to SPCL rather than WA2000 (which had been the chief proponent in the negotiations) was not documented and seemed ill advised. Although the Department has stated that the reason for contracting with the employer rather than the training provider was to more effectively tie-in the expected employment outcomes, there is little evidence to this effect. Such an approach may well have proved to be appropriate. But it would have been prudent to have considered much more carefully the claims made by SPCL and the risks to the project (and to the Commonwealth funds) that the 'transfer of ownership' obviously entailed. There was no indication that the Department gave these matters any consideration. Legal or financial advice on the implications of the 'transfer' was not sought.
- The question as to whether the contracted cost of approximately \$2.8m represented value for money to the Commonwealth is difficult to resolve. The relevant documentation contains many inconsistent representations of the cost of the training. Moreover, most of these representations have been provided since the contract was signed. It is evident that the unit cost of the training of \$8,220 was acknowledged, during the assessment process, to be well above average. Information provided to the ANAO by the Department indicated that the average unit cost of TEP proposals in Queensland around this time was less than \$3,000. However, the assessor suggested the high cost was 'somewhat offset' by the guarantee of employment outcomes. Furthermore, the specialised nature of much of the training was later considered to explain its high cost. Nevertheless, on the basis of available documentation the extent to which the Department analysed the cost structure, before committing the Commonwealth, to be satisfied that the proposal offered good value for money is unclear. As mentioned above, the Department also did not assess the capacity of either WA2000 or SPCL to deliver the proposed employment outcomes.<sup>1</sup>
- The decision to make an advance payment of 80 per cent of the contracted costs (an advance of some \$2.2m) is difficult to justify on any grounds other

---

<sup>1</sup> The TEP proposal was for the delivery of both training and employment outcomes. The training was to be delivered by WA2000 and the employment outcomes were to be delivered by SPCL. Initially the contract was to be between the Commonwealth and WA2000. As such WA2000 would have had legal responsibility for all deliverables required under the contract.

than noting that DEETYA Queensland was under some pressure to expend a large sum of LMP funds before the end of the financial year. The proposal did not call for an advance. The advance was made outside a reasonable interpretation of the Department's Core LMP Guidelines (although, because there were some up-front costs involved, an advance of a much lesser amount - around \$700,000 - may have been warranted). In any event, the reasons for the level of the advance were not documented for accountability processes and in accordance with good management practice.

- The Department did not conduct any financial viability checks on the contractor before awarding the contract or making the advance. Neither did DEETYA consider whether some form of security over the advance (such as a bank guarantee) was warranted.
- The contract documents were not checked by relevant senior management and were not presented to, or discussed with, the Department's Legal Group before issue.

### ***Managing the contract***

**48.** The ANAO investigated the Department's management of the contract, particularly in the light of the adverse criticism it was attracting. The ANAO considers that a proposal of this nature and complexity (involving tight timeframes, and many different areas of the Department as well as a number of contractors and subcontractors) warranted effective project management from the outset, with appropriate delineation of responsibilities, tasks, deadlines, concern for accountability and establishing close lines of communication. Although a project manager was nominated, particular responsibilities were not defined. The ANAO concludes their absence has led to confusion and uncertainty among some officers and undoubtedly added to the difficulties experienced by the Department in the management of the cruise ship project. Internal recommendations to strengthen management control, established in July 1997, do not appear to have been acted on. Similarly, early indications of tensions between the contractor and sub-contractor, and signs of possible delivery problems, which would have placed the project at risk, do not appear to have been consistently or definitively handled. The opportunity was not taken at an early stage to enforce the contractor's obligations under the agreement. This further exposed the risk to Commonwealth funds. In particular:

- the moves to involve National Office once the adverse criticism was raised were appropriate and timely but recommendations arising from National Office reviews of the contract and preceding events were not followed-up; and

- the decision to extend the contract to allow completion of the training was appropriate and well considered given the timing of the request and the limited options then available to the Department. However, DEETYA Queensland failed to involve, in a timely manner, the Legal Group in providing legal opinion on the documentation purporting to support the lease of a vessel. Although no further funds were provided to the contractor it would have been prudent to seek legal assistance before the contract was extended.

### ***Application of relevant guidelines***

49. The ANAO considered whether the Department has managed the proposal and subsequent project within the boundaries of the relevant DEETYA guidelines. These guidelines are intended to protect the Commonwealth's interests and ensure appropriate accountability for the use of Commonwealth funds. The ANAO concludes that a number of the Core LMP and TEP guidelines have been contravened and this has led to a number of significant management problems.

### ***Application of risk management practices***

50. The program guidelines broadly reference risk management principles. However, the ANAO considers that the Department did not adequately apply comprehensive risk management practices involving a systematic approach to the project. In part, this may reflect the absence of clear guidance on risk management principles and practices in the program guidelines. Nevertheless, it is clear that neither DEETYA Queensland nor National Office undertook a considered risk assessment and analysis of the cruise ship proposal.

### ***Action subsequent to SPCL's withdrawal from the project***

51. The ANAO considered the actions of the Department following SPCL's withdrawal from the market. Action was prompt and appropriate. DEETYA Queensland moved quickly to protect the interests of the trainees while National Office (through the Legal Group) moved to secure, as far as is possible, any remaining Commonwealth funds. Legal action is continuing.

52. The Department has also taken action, on the recommendation of the Internal Audit Branch, to tighten LMP and TEP guidelines relevant to advance payments against contracts. The ANAO considers that this action, while basically appropriate, does not adequately address the underlying causes of the administrative breakdowns exposed by this contract.

## ***Advice to the Minister***

**53.** The Department entered into the contract with SPCL without reference to the Minister or the Minister's office. This was appropriate given the relevant delegations were available within DEETYA Queensland. And although this was an unusual project for DEETYA Queensland, particularly in terms of the number of unemployed persons to be assisted and the nature of the prospective employment, at that stage there was little to indicate the project had national or political implications that warranted the Minister's attention. In addition, the Department promptly advised the Minister's office of developments when the adverse media attention broke and continued to brief the Minister on developments from time to time. However, the ANAO noted inaccuracies, factual errors and incomplete information in a number of the briefings. Some of these may have been the result of inadequate communication between the Queensland and National Offices. Others may have been the result of the absence of documentation or misinterpretation of advice. However, most could have been avoided.

**54.** The ANAO concludes that the Department failed to provide ongoing, full, candid and, in a significant instance, timely briefings to the then Minister in relation to the SPCL contract. This has had unfortunate consequences for the accountability of the Department to the Minister and has contributed to the adverse media and political impact surrounding the contract.

## ***DEETYA Response***

**55.** In summary, the Department responded that it considered the report to be comprehensive in terms of its coverage of key events and developments. The Department also noted, however, that the matters of substance had already been reported on, including to the Parliament, and that the information provided to the Minister reflected the relevant officers' honest belief at the time.

*'The project was managed at a time of significant change within the portfolio. There was not only the actual or prospective relocation of substantial numbers of staff between Centrelink, PEPE Ltd or new DEETYA, but there was a shift in focus in Labour Market Programs from training to achieving employment outcomes. This project offered significant outcomes for a substantial number of unemployed clients. While there were clearly deficiencies at the outset, at various stages in the project thereafter officers weighed up the risks and invariably decided to continue with the project while ever clients could continue training and there was a possibility they would get jobs.'*



*Clearly officers acted with the best of intentions for the clients. However, it has to be conceded that closer adherence to the program guidelines initially would have avoided some of the subsequent difficulties with this project’.*

**56.** The Department also commented that:

*‘the report overall focuses heavily on what has occurred in the past. [DEETYA believes] greater prominence should be given to arrangements for the new employment services market, since these will greatly reduce the likelihood of a similar occurrence in the future. The current programs and arrangements will largely disappear in about six months time. Under the new arrangements there will be a centralised tender process, enhanced financial viability checks on providers, centralised contract negotiation, payment on results and closer monitoring of services’.*

# Recommendations

## Recommendations

It is difficult in an audit with a constrained focus, such as was requested in this case, to make other than very specific recommendations. In this particular audit, a further limitation is that many of the programs, to which such recommendations would apply, will soon cease. However, this does not preclude the consideration of the application of the recommendations in relation to other departmental programs and contractual arrangements. Moreover, the ANAO has identified a number of contract and project management issues that apply to the Australian Public Service (APS) as a whole. The wider lessons for the APS are discussed in the final chapter of this report.

**Recommendation No. 1** The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs:

**Para. 4.42**

- a) review TEP (and other relevant) guidelines and instructions to ensure the material provides adequate guidance on issues to be addressed when assessing a proposal against program objectives and value for money imperatives, including for example, financial assessment of potential contractual parties and the requirement to justify advance payments; and
- b) ensure the review has due regard to accepted risk management practices in the APS and be tailored to accommodate the diverse nature of potential contracted parties (for example, private sector companies or other government agencies).

*DEETYA response: Agreed*

**Recommendation No. 2** The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs ensure staff involved in the preparation of contracts and contract management are provided adequate training and guidance. Advice to officers should indicate circumstances when it would be appropriate to seek professional assistance in these matters.

**Para. 4.70**

*DEETYA response: Agreed*

**Recommendation No. 3** The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs put in place

**Para. 4.118**

arrangements to ensure major proposals/projects under Labour Market Programs, or similar programs, are properly project managed in that:

- the roles and responsibilities of parties involved are clearly defined, including State and National Office roles;
- experienced and appropriately trained officers are nominated (and available) for key roles;
- reporting and accountability arrangements are established, including the requirement to adequately document key decisions and actions; and
- overall management and supervision occur at a sufficiently senior level to ensure effective outcomes.

*DEETYA response:* Agreed

**Recommendation  
No. 4  
Para. 5.18**

The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs review, as part of prudent risk management procedures, the management of current LMP projects across the Department to ensure effective and efficient management practices are applied.

*DEETYA response:* Agreed

**Recommendation  
No. 5  
Para. 5.29**

The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs review processes relevant to the preparation of Ministerial briefings to ensure that there is adequate coordination between National and State offices directed to the provision of briefs that are complete, accurate and timely.

*DEETYA response:* Agreed

## **Audit Findings and Conclusions**

**1.**

---

# 1. Introduction

---

*This chapter describes the background to the audit and sets out its objective, scope, focus, criteria and approach.*

## Background to the Audit

1.1 On 12 September 1997, the then Minister for Employment, Education, Training and Youth Affairs asked the Secretary of DEETYA to refer the SPCL contract to the Auditor-General for investigation. This was as a result of the Minister's concern regarding the adequacy of the briefings provided by the Department in relation to the SPCL contract.

1.2 The Auditor-General agreed to the Secretary's request on 17 September 1997 and an audit, under the efficiency audit provisions of the *Audit Act 1901*, commenced the next day.

## Audit objective, scope and focus

1.3 The objective of the audit was to review the efficiency, economy and administrative effectiveness of departmental activities leading to the letting of the contract with SPCL and its subsequent administration. This has included, among other things, an examination of action taken to protect the Commonwealth's interests and the adequacy of relevant departmental guidelines and processes.

1.4 A primary aim of the audit was to identify the facts of the particular case and indicate where improvements could have been made. As well, it was decided to extend the value of the audit by identifying elements of better practice that could be followed under similar circumstances or programs in the future.

1.5 The ANAO has not had the opportunity to consider, in depth, whether the underlying problems identified in this audit are widespread within DEETYA Queensland (which was responsible for managing the contract) or more generally within the Department. However, while the circumstances of the specific contract audited seem extraordinary, there are strong indications that some of the practices highlighted may be commonplace. This warrants further review by the Department.

## Audit criteria

1.6 In assessing the efficiency, economy and administrative effectiveness of departmental activities leading to the letting of the contract with SPCL and its subsequent administration, the ANAO examined:

- relevant departmental program guidelines and finance instructions;
- relevant Finance Regulations and Directions, for example Finance Direction 8D concerning payment for supplies in advance;
- Commonwealth Procurement Guidelines 1997;
- MAB/MIAC Report No. 22 '*Guidelines for Managing Risk in the Australian Public Service*' October 1996;
- MAB/MIAC Report No. 23 '*Before You Sign The Dotted Line...Ensuring Contracts Can Be Managed*' May 1997; and
- established project management principles.

## **Audit approach**

1.7 The audit has involved an intensive review of departmental documentation concerning the contract and its management. Interviews have taken place with key departmental officers and with other Commonwealth agencies involved.

1.8 In view of the legal action that has been initiated by the Department against SPCL, a related company, and WA2000, contact by the ANAO with those bodies has been limited. The legal representatives of SPCL requested that any contact be in the form of specific written questions. The ANAO has had discussions with senior officers of WA2000.

1.9 All parties were offered the opportunity to comment on the proposed report in accordance with the requirements of the Audit Act and 'natural justice' considerations. This report has had regard to the comments received. Where appropriate, the comments have been included in the report.

1.10 The ANAO also engaged the services of appropriate outside expertise to provide supplementary assistance in undertaking a 'due diligence/probity' review of South Pacific Cruise Lines Ltd and its (then) parent organisation Chancellor Group Inc. As well, the ANAO considered there may be advantage in developing better practice guidelines on financial risk assessment procedures, and the consultants have provided advice. The ANAO is continuing with the latter task and will provide the resultant guidance material to relevant APS Departments and agencies for comment early in 1998. The decision to engage the services of a consultant reflected the nature of the commercial elements involved in the audit as well as the time critical nature of the audit, which had to be accommodated within an already agreed audit program for 1997-98 and with the ANAO's available resources.

1.11 The audit was conducted in accordance with ANAO Auditing Standards and cost \$148,000.

## **Structure of the Report**

1.12 Chapter Two describes the chronology of events leading up to and following DEETYA entering into a contract with SPCL.

1.13 Chapter Three describes the prevailing environment that markedly influenced the decisions of the Department and its management practices.

1.14 Chapter Four describes the processes that led to the award of the contract to SPCL and the subsequent administration of the contract. It includes discussion on how the proposal was assessed and the departmental guidelines applied, the contract itself, management and administration of the contract and actions taken by the Department once problems became evident.

1.15 Chapter Five describes actions taken by the Department following the withdrawal of SPCL from the marketplace. It includes discussion of National Office's involvement, measures taken by the Department to protect the Commonwealth's interest and to prevent a recurrence of the problems experienced, and the adequacy and timeliness of advice provided to the Minister.

1.16 Chapter Six briefly describes some of the issues relevant to the broader APS that this audit has exposed. It also discusses lessons learned and further action to develop relevant better practice guidance.

## 2. A Chronology of Events

*This chapter provides a detailed chronology of events associated with the cruise ship project with the purpose of providing background information for the report. The ANAO's conclusions and recommendations in relation to these events are contained in later chapters.*

2.1 On 16 May 1997 the Department of Employment, Education, Training and Youth Affairs (DEETYA) entered into a formal agreement with South Pacific Cruise Lines Ltd for the delivery of a ten-week program of pre-employment training for 340 long-term unemployed persons and the subsequent employment with SPCL of successful participants. SPCL was a recently established company which aimed to set up a cruise ship operation, berthed in Brisbane and staffed by Australians.

2.2 The agreement was the product of a series of discussions and negotiations between DEETYA (National Office in Canberra and the Area Central Office in Brisbane), SPCL and William Angliss 2000 Pty Ltd (WA2000), a Melbourne-based subsidiary of the William Angliss Institute of TAFE.<sup>2</sup>

2.3 Negotiations with DEETYA commenced in December 1996 when the Chief Executive Officer of WA2000 contacted a Deputy Secretary in DEETYA's National Office to discuss a number of issues generally related to the Department's Labour Market Programs (LMP). WA2000 advised that a cruise line company had asked them to 'broker an agreement with DEETYA and TAFE for the training and employment of several hundred employees'. Arrangements had not been finalised but WA2000 indicated further contact would be made with DEETYA once details were known.

2.4 In late January 1997 the General Manager of the Chancellor Group Inc. wrote to DEETYA's National Office, outlining a cruise ship program that would be announced shortly through 'its recently established public entity South Pacific Cruise Lines Limited'. The program would involve the recruitment of 375 hospitality personnel in stage one and 'a further 200-300 within 12 months of the commencement of cruise activities'. Chancellor advised that WA2000 were authorised to deal with DEETYA on their behalf 'on how [DEETYA] can assist in the areas of expertise that William Angliss are involved in'.

---

<sup>2</sup> WA2000 had been contracted by DEETYA to provide services under several of the Department's Labour Market Programs, including Jobtrain and New Work Opportunities (NWO). In Victoria, WA2000 was involved in a NWO project covering 359 places and a commitment of almost \$3.8m. In NSW, WA2000 was involved in a NWO project for 1,000 places and a commitment exceeding \$12.6m. WA2000 had no contracts with DEETYA in Queensland.



2.5 WA2000 corresponded further with DEETYA, outlining the project and the Department's possible role. On 17 February 1997 a meeting was held in Queensland involving National Office and DEETYA Queensland staff and the CEO of WA2000. The project was discussed in general at this meeting, which was primarily to introduce WA2000 to DEETYA Queensland staff. In-principle agreement was reached to consider a formal proposal should WA2000 bring one forward. It was confirmed that responsibility for the development and management of the project would be taken locally by DEETYA Queensland. This was usual in LMP administration.

2.6 In the ensuing weeks the Department worked with WA2000 to develop the proposal. In mid-March DEETYA Queensland advised WA2000 that much more detail was required 'on almost 100 issues' and a business plan was required from the employer to clarify the outstanding issues. SPCL provided the Department, through WA2000, information on the proposed operations of SPCL and further details on the project as requested by the Department. This resolved some of the outstanding issues. Information provided included a version of the Major Projects Incentive Scheme submission from SPCL to the Queensland Government.<sup>3</sup> However, the information did not include details of the status of SPCL directors or their previous business experience and such information was not sought by the Department. Departmental officers did not accord any particular significance to a reference to SPCL becoming independent of the Chancellor Group Inc.

2.7 In a letter dated 26 March 1997, WA2000 provided further details of the project, including estimated costs. The project would offer 150,000 hours of pre-employment training to 304 long-term unemployed persons for a total cost of \$2,025,000 (including costs for administration, uniforms and texts). Up to 30 traineeships would be established. Although not specifically mentioned, the letter implied that all trainees would be offered employment with SPCL. Furthermore, DEETYA was invited to include up to another 30 persons on the training program at no extra cost. WA2000 advised that it would require funds totalling \$668,800 to cover setup costs.

---

<sup>3</sup> SPCL had negotiated with the Queensland State Government, through the Department of Tourism, Small Business and Industry, concerning assistance under the Major Projects Incentive Scheme (MPIS). The State had agreed, subject to specific conditions, to provide financial incentives (refunds of State payroll tax, funds for training staff). Funds had also been allocated (\$250,000) for upgrading a Brisbane wharf to provide temporary berthing facilities for the cruise ship. These funds had not been paid to SPCL. However, approximately \$30,000 had been provided to SPCL to undertake a feasibility study of the wharf facilities. The State Department had undertaken due diligence checks on SPCL in early February 1997 but these had not revealed any information concerning the bankruptcy status of the company's directors (information has since shown that the company's CEO had resigned as a director at that time but was later reappointed). Some of the documentation provided by SPCL to the State in support of their MPIS application was provided to DEETYA through WA2000.

2.8 This correspondence was followed up with a meeting in Brisbane on 10 April 1997 involving representatives of SPCL, WA2000 and DEETYA Queensland. The role of the various parties was discussed, as was the timing of the project. Based on advice from SPCL concerning the expected commencement of operations, it was determined that training would have to start during June 1997. This imposed a tight timeframe, but one that all parties agreed was fully achievable. During the meeting, a 'Proposal for Labour Market Program Delivery' form was completed by the CEO of WA2000. This document proposed a ten-week training program, delivering 150,000 hours of training to 340 long-term unemployed persons. The training would result in a Certificate in Hospitality (Cruise Ship Operations) based on qualification against standard industry modules. WA2000 would supply course accreditation details at a later date. The proposal stated that all trainees who passed the training and attitude tests would be guaranteed employment with SPCL in a twelve month supervised traineeship. The total cost was \$2,794,799 - a unit cost of \$8,220 which included tuition costs of \$6,720 and administrative, design, management, uniform and other costs of \$1,500. The differences between this version of the project and that put forward on 26 March 1997 were not discussed.<sup>4</sup>

2.9 The LMP proposal completed at the meeting became a significant attachment to the formal agreement that was entered into by DEETYA and SPCL in May 1997.

2.10 Further details of the training and recruitment program were discussed between the Department and WA2000, but at this stage the Department considered the cruise ship project an attractive proposal, offering strong potential employment outcomes for a large number of long-term unemployed persons. The Department was keen to see the proposal proceed. On 15 April 1997, having completed an assessment of the proposal against the guidelines for the Training for Employment Program (TEP), the TEP program officer recommended that the Area Manager, DEETYA Queensland, give 'in-principle agreement' to the proposal subject to the resolution of a number of issues. The unit cost was acknowledged as being above average (although the average cost was not stated) but the cost could be 'somewhat offset by the guarantee of employment outcomes (100 per cent) with good prospects of ongoing employment opportunities for the trainees'. A reference was also made to the possibility of intakes of 'an additional 2,000 employees over four years'. Issues still to be resolved included the accreditation of the training and

---

<sup>4</sup> It is noteworthy that all successful participants would now progress to traineeships with SPCL (previously only 30 traineeships were proposed) and that the total hours training proposed - 150,000 - had not changed although another 40 participants were to be trained.

details of the training schedules. The possibility of an advance payment to the contractor was not raised.

2.11 The same day the Area Manager, DEETYA Queensland, alerted National Office by Email that negotiations would soon be completed for a TEP proposal involving approximately 380 jobseekers, with guaranteed employment outcomes. The TEP element was expected to cost approximately \$2.6m, with \$2.2m (80 per cent) 'up front this financial year'. The purpose of the information was to ensure that, at this late stage of the financial year, the funds remained available to DEETYA Queensland. The Area Manager advised the ANAO that the size of the advance payment was queried by National Office, but it was accepted that the decision regarding payment remained with DEETYA Queensland.

2.12 WA2000 provided the Department with information on the structure of both the hospitality and maritime training modules. On 23 April 1997 the DEETYA project manager, having resolved the outstanding issues to his satisfaction, submitted the TEP proposal to the Area Manager for approval to proceed. The project manager recommended that 80 per cent of course costs - approximately \$2.2m - be advanced before 30 June 1997, but the reasons for the advance were not documented. The submission was endorsed by the Assistant Area Manager, DEETYA Queensland.

2.13 The project was approved by the Area Manager on 29 April 1997.

2.14 It is important to note that at this stage DEETYA were dealing with WA2000 rather than SPCL, and expected the formal contract to be issued to WA2000.

2.15 The project manager took action to prepare a contract with WA2000, but on 7 May 1997 he was contacted by telephone by the CEO of SPCL to discuss ownership of the TEP proposal. SPCL wished to be contracted with DEETYA, rather than WA2000. SPCL stated that its 'financial advisers indicate that [SPCL] must list the TEP proposal in their prospectus otherwise the company will list financial data which is erroneous and which significantly understates the company's financial position'. The project manager sought advice from DEETYA Queensland's program branch. He was advised that subject to an exchange of letters between WA2000 and SPCL, and agreement that SPCL would sub-contract WA2000 to deliver the training, the 'transfer' of the project (and the contract) to SPCL was acceptable.

2.16 The documentation gives no indication that the project manager sought approval for the 'transfer of ownership' from senior officers of the Department,

or the Department's Legal Group, although the Area Manager, DEETYA Queensland Central, was advised in a regular briefing report.

2.17 WA2000 and SPCL agreed to these conditions and provided written confirmation to DEETYA. Consequently, a contract was prepared naming SPCL as the contractor and including a clause to the effect that SPCL must sub-contract WA2000 for the management and delivery of the program. The contract itself was a standard agreement with relatively minor modifications. The handwritten TEP proposal prepared by WA2000 during the 10 April 1997 meeting was attached to the contract to provide the details of the services to be delivered by SPCL. Nevertheless, the contract was not clear on many important aspects including the training to be provided, its accreditation status, timing and content.

2.18 The contract was dated 16 May 1997. It covered the period 23 June 1997 to 29 August 1997. The signatories were the CEO of SPCL and the State Manager, DEETYA Queensland (previously Area Manager Queensland Central).

2.19 The Department continued to deal principally with WA2000, discussing issues such as the training modules to be offered, the selection of a local (Queensland-based) training provider, and screening and selection of the trainees. By the end of May 1997, the Brisbane CES, in conjunction with WA2000, had processed over 2,000 applications for trainee positions, sent letters to unsuccessful applicants and held a second round of interviews. The local training provider, selected as a result of a tender exercise by WA2000, was settled in early June 1997 as the Sarina Russo Institute of Technology. This provider was contracted by WA2000 to provide most of the training.

2.20 On 4 June 1997 SPCL invoiced DEETYA for the agreed advance payment. On 6 June 1997, the Department advanced SPCL \$2,235,838.50, representing 80 per cent of the total contract cost. Training had not yet commenced - it was not expected to do so until 23 June 1997.

2.21 Around 11 June 1997, adverse media reports began to appear (predominantly in Queensland) concerning the uncertainty of the SPCL cruise ship venture. Mention was made that the principals of SPCL were former bankrupts and that there was no ship available to the company. DEETYA was unaware of the background of SPCL or of the company's directors. Most of these reports were directed against the State Government involvement and in particular against the Queensland Minister for Tourism. They made no reference to DEETYA's involvement.

2.22 In the light of these reports the Department immediately initiated checks through the Australian Securities Commission (ASC) into the company and its directors. It was established that two of the company directors were discharged bankrupts. One of these directors was also the CEO. Although the information available from the Commission was limited, because SPCL had only been listed since December 1996, the ASC did not report adversely on SPCL.

2.23 On 12 June 1997 the Acting Area Manager, DEETYA Queensland Central, provided the Minister's Office with a briefing on the SPCL project. The briefing offered background to the project and the recruitment activities and discussed, as an important issue, why SPCL was awarded the contract. The briefing also included the advice that 'finance checks made in respect of the company did not reveal any irregularities'. The juxtaposition of this comment with other comments concerning the date of approval of the project (29 April 1997) and the payment of the advance (6 June 1997) may have given the impression that the finance checks had been performed around the same time. In fact, the checks had been initiated on 11 June 1997, almost a month after the contract with SPCL was formalised.

2.24 The media speculation and the additional information that had become available about the SPCL directors prompted National Office to query the contract. A National Office review team visited DEETYA Queensland to examine the process leading up to signing the contract and the advance payment. The review identified that 'a number of things had not been managed properly in the contract negotiations'. In addition, the review identified a number of contraventions of the program guidelines. However, it was also stated that 'there is no evidence so far to suggest that the project is in jeopardy or that any fraudulent activity has been undertaken'. The review recommended closer monitoring of the contract by DEETYA Queensland (including fortnightly meetings with all parties and reports to National Office) and the negotiation, with SPCL, of procedures to ensure the transparency of funds management. The ANAO was unable to find evidence that these recommendations had been acted upon by DEETYA Queensland.

2.25 Both SPCL and WA2000 contacted DEETYA Queensland around mid-June 1997 and provided assurances that the project was proceeding to schedule. It is noteworthy that WA2000 indicated they were willing to take over the contract, under certain conditions but at no additional expense to the Commonwealth, and would guarantee placement of the successful employees 'in the event of problems being experienced with SPCL at any time from now'.

2.26 Notwithstanding these assurances, the Department now had concerns about the contract. National Office staff questioned the cost of the training

under the contract and requested an explanation for an apparent increase in costs, between March and April 1997, from some \$2.0m to \$2.8m. Details were sought from DEETYA Queensland, but departmental officers were unable to provide a satisfactory response. Given that WA2000 had completed the costing schedule as part of their TEP proposal, and that the management and delivery of the training program had been sub-contracted to WA2000, DEETYA Queensland asked WA2000 for a detailed breakdown of costs. WA2000 did not provide justification for the amount included in the contract, instead it provided a breakdown of costs that showed the costs to WA2000 exceeded \$10,600 per client and DEETYA were being charged only 75 per cent of these costs. Although the Department was not satisfied by this response and the issue of costs remained a concern, it was not further pursued until September 1997. The response then was still unsatisfactory from the Department's perspective.

2.27 Around the same time, following inquiries by DEETYA Queensland, the Department became aware that SPCL was apparently using Commonwealth funds other than for the purposes agreed under the conditions of the contract. Furthermore, the Department was advised that a formal contract between SPCL and WA2000 was yet to be prepared and that SPCL had not forwarded funds, advanced by DEETYA, to WA2000 as might have been expected. This was an early indication of growing tension between the contractor and sub-contractor.

2.28 The Department was also concerned about the lack of certainty regarding the vessel to be used by SPCL in the cruise venture. Notwithstanding assurances from the company in early June 1997 that the lease of a vessel was imminent, SPCL had not provided the Department with satisfactory evidence that such was the case. The Department continued to press SPCL for firm evidence of the transaction, but to no avail.<sup>5</sup> The lease of the vessel became critical in late August 1997 when SPCL sought an extension to the contract.

2.29 On 23 June 1997 training commenced in Brisbane.

2.30 On 24 June 1997 advice was sought from the Department's Legal Group concerning action that could be taken to protect the Commonwealth's funds advanced under the agreement with SPCL. The Legal Group advised that the contract was binding and could only be terminated on default, for

---

<sup>5</sup> Around this time the Australian Maritime Safety Authority (AMSA) was also pursuing SPCL for details of the vessel. These details were needed to resolve issues associated with safety aspects of a passenger vessel operating in Australian waters. Safety-at-sea training for the crew, including hospitality crew, was one issue. AMSA were similarly facing difficulties getting adequate information from SPCL.

convenience or possibly, misrepresentation. 'The default option cannot be utilised until there has been a default and this default must be serious enough to warrant termination ... Should DEETYA decide to terminate the contract for convenience then a compensation payout would almost certainly be expected'. With regard to misrepresentation, the Legal Group advised that, if evidence of purchase of a vessel was not forthcoming (in the form of a contract) within the next week, DEETYA must reassess its position. Legal Group also pointed out that under the contract SPCL was required to lodge Commonwealth funds in an account used exclusively for the contracted services, to account for the use of those funds and that DEETYA had the right of access to SPCL's financial records. Such right of access should be exercised and a draft letter to SPCL was offered. There is no indication that this letter was issued to SPCL by DEETYA Queensland at this time.

2.31 The training continued, although WA2000 was still developing the final details of the at-sea training. Requirements for delivery had not been finalised with the Australian Maritime Safety Authority (AMSA). In early August 1997, it was observed that the delays in securing a vessel, which in turn created delays in finalising the training program, were leading to the conclusion that an extension to the contract would be necessary. On 15 August 1997, SPCL formally requested an extension to the contract to enable trainees to complete some essential safety training prior to travelling to Singapore to complete the vessel fit out and sail it back to Australia. This was accepted by the Department to maximise the benefits of the training to the participants, and to ensure they continued to receive their training allowances. However, SPCL were firmly advised by DEETYA Queensland that an extension would not be approved without adequate evidence that a vessel had been leased. Documentation sent to DEETYA by SPCL satisfied the Department on these grounds although the Legal Group was not consulted at this time<sup>6</sup>. A contract extension was agreed on 20 August 1997 to cover the period to 13 September 1997. No additional payments to SPCL or WA2000 were involved.

2.32 On 19 August 1997, during a hearing of the Senate Employment, Education and Training Legislation Committee, the Department was questioned closely concerning the SPCL contract. A week later questions were asked in the Queensland Parliament concerning the dealings between the Queensland Department of Tourism, Small Business and Industry and SPCL. This generated further media interest.

---

<sup>6</sup> Legal advice, following a request from the officer conducting the internal audit, in September 1997 was that the lease may be a valid agreement, but it was undated, contained inconsistencies and did not substantiate a lease for a vessel.

2.33 On 28 August 1997 the then Minister for Employment, Education, Training and Youth Affairs requested the Department to undertake an urgent investigation into the letting of the contract. The Department briefed the Minister on 1 September 1997 and again on 2 September 1997 providing background to the SPCL contract and comment on departmental actions. The Department concluded that 'the best option available to the Department is to proceed with the terms of the TEP contract in the expectation that the company will meet its undertaking to employ all successful trainees. ... there is still a strong likelihood of positive outcomes being achieved by some 290 participants'.

2.34 On 3 September 1997 the Minister advised the Secretary of the Department that she felt she had not been adequately briefed and sought a final report covering, amongst other things, details of the guidelines or policies that had been breached and action to prevent such actions in the future. The Secretary arranged for the Assistant Secretary, Audit to undertake an urgent investigation. This was subsequently reported to the Senate by the Minister.

2.35 Unknown to DEETYA, AMSA had concerns about the suitability of the vessel for its purported purpose, and informed the Minister for Transport and Regional Development on 5 September 1997 that they had reservations regarding SPCL's understanding of the maritime industry and responsibilities associated with the operation of passenger ships in Australia.

2.36 On 5 September 1997 SPCL advised the Department that some 264 trainees had 'clearly met the criteria for successful completion of the course and subsequent job offers from SPCL. From next Monday [8 September 1997] we will commence the job offer process for no less than 264 trainees. ... The new employees will commence with SPCL from 15 September 1997'.

2.37 On 6 September 1997 the Queensland Minister for Tourism advised that SPCL had withdrawn from the Major Projects Incentive Scheme.

2.38 On 10 September 1997 SPCL announced that it was abandoning the cruise line project because of the withdrawal of a key financial backer. A press release was issued by SPCL. The Department issued a press release advising that individual assistance would be provided to all affected jobseekers and emphasising the value of the training they received. DEETYA also took immediate action to terminate the agreement with SPCL and to protect any remaining Commonwealth funds held by SPCL. This involved obtaining court orders (dated 12 September 1997) to freeze the assets of SPCL and its principals and requiring SPCL to detail how the funds advanced to SPCL under the contract were spent. Further legal action was expected. On 1 October 1997 legal proceedings were commenced against WA2000.



2.39 The Department also approached the Australian National Training Authority (ANTA) to clarify the status of the training provided through WA2000 under the contract. ANTA reported on 29 September 1997 that the training was transferable, nationally recognised at the module level, met established industry needs and would be of value in the employment market. ANTA has advised that a Certificate II course in Hospitality (Cruise Ship Operations) was accredited by the Office of Further Education and Training, Victoria, on 26 September 1997. WA2000 were expected to offer the certificate to 161 trainees. Another 119 trainees would receive Certificates of Attainment.

2.40 On 12 September 1997, the then Minister issued a media release stating that she had asked the Secretary of DEETYA to refer the SPCL contract to the Auditor-General for investigation. The Minister's media release stated that 'the Department has provided a number of briefings on the matter, but I am not satisfied that they fully answer the concerns I have raised'. In particular, the Minister was concerned that the Department had provided incorrect advice regarding the accredited status of the training provided under the contract.

2.41 On 15 September 1997, the Secretary of DEETYA requested the ANAO to conduct a full inquiry into the letting and subsequent administration of the Department's contract with SPCL.

2.42 On 17 September 1997 the Auditor-General agreed to conduct a performance audit into matters leading to the letting of the contract and its subsequent administration, under the efficiency audit provisions of the *Audit Act 1901*. The audit commenced the following day.

2.43 DEETYA has since made some changes to the Core LMP Guidelines to limit the maximum amount that can be advanced under a contract to 50 per cent of the contracted fee to a maximum of \$500,000. These changes have been made notwithstanding that the guidelines always stated that advance payments should only be made in exceptional circumstances. In addition, all LMP projects exceeding \$1m must be referred to the relevant Program Manager in National Office before approval. Some additional requirements were made for TEP contracts where the training provider is a sub-contractor.

2.44 On 1 October 1997 the Senate Employment, Education and Training Legislation Committee conducted a hearing to discuss the SPCL contract. DEETYA provided the Committee a detailed account of the development and administration of the cruise ship project and acknowledged that there had been serious management deficiencies and that Commonwealth funds had been put at unacceptable risk.

2.45 On 22 October 1997, the ANAO was advised by WA2000 that a total of 179 participants will be issued a Certificate Level II in Hospitality (Cruise Ship Operations). A further 140 participants will receive a Statement of Attainment with respect to the modules they completed.

2.46 Proceedings against SPCL are continuing, with a trial date set for 25 and 26 May 1998.

2.47 DEETYA advised the ANAO that, at 26 November 1997, 144 trainees had been placed in employment by the CES.

### **3. The Prevailing Environment**

*This chapter examines the environment in the Department at the time in which the agreement with SPCL was being negotiated and considers its effect, if any, on departmental decisions and management practices.*

*The ANAO concluded that the prevailing climate in DEETYA Queensland, and within the Department generally, had a significant influence upon the assessment and administration of the project.*

#### **Introduction**

3.1 The ANAO sought to establish whether the prevailing environment at the time the contract was being negotiated and finalised influenced in any way the assessment of the proposal and the administration of the contract. In part, this would indicate whether the situation was particular to that environment; whether there were systemic problems that needed to be addressed; or whether the situation was sufficiently generic to distil important management lessons for the APS in the future. The ANAO's findings and conclusions are detailed below.

#### **The Training for Employment Program**

3.2 The Training for Employment Program (TEP) forms part of the current suite of Labour Market Programs (LMPs) available to the Commonwealth Employment Service (CES), Employment Assistance Australia (EAA) and Contracted Case Managers to assist disadvantaged job seekers into employment.

3.3 The specific objective of TEP is to assist eligible job seekers gain unsubsidised or subsidised employment through the provision or enhancement of vocational skills. It provides vocational training which is linked to specific employment opportunities in the labour market and aimed at getting job seekers into jobs as quickly as possible.

3.4 The TEP proposal submitted by WA2000 and SPCL met the TEP program requirements and, in the Department's view, offered quality training linked to guaranteed employment outcomes for 340 Long-Term Unemployed (LTU) DEETYA clients.

1.1



3.5 Furthermore, early information on the proposal suggested that the cruise ship company would be prepared to recruit and train several hundred more LTU clients within twelve months of the commencement of cruise activities and the possibility of about 2000 places over the next four years. DEETYA Queensland therefore considered the project offered long-term employment opportunities for its clients.

## **Environment**

3.6 The events surrounding the negotiation and administration of DEETYA's contract with SPCL occurred at a time of considerable change in the Department. This change included a shift in focus for LMPs from training to employment outcomes; the introduction of the new state-based organisational structure; and considerable action being taken to create the Commonwealth Services Delivery Agency (known as Centrelink) and the Public Employment Placement Enterprise Ltd (PEPE Ltd) including separating those CES/EAA services which will be subject to competition through the current employment services tender process from those continuing within DEETYA. With many of the LMPs concluding in 1997-98<sup>7</sup> there was a strong focus on completing work in hand and committing remaining program funds prior to the end of the financial year.

3.7 The SPCL project also placed considerable time pressures on the approval process due to the tight timeframe for commencement of cruise line operations. With SPCL expecting to commence operations in September 1997, training would have to commence in June 1997 at the latest.

### ***Focus on employment outcomes***

3.8 The Department has commented that the focus of LMPs over the previous twelve months had moved away from training to sustainable employment outcomes. The cruise ship project, at face value, offered those outcomes. DEETYA Queensland advised the ANAO that the link between training in the Hospitality Industry (which represents a significant and rapidly growing industry in Queensland) offered to a large number of LTU clients and the guarantee of employment through a supervised traineeship with SPCL, made the TEP proposal very attractive.

### ***The competitive employment placement market***

3.9 The new Competitive Employment Placement Market announced by the Government in the 1996-97 Budget will be effective from 1 May 1998.

---

<sup>7</sup> LMPs will be cashed out by 30 April 1998.

3.10 Under the new market, the PEPE Ltd and non-government employment service providers will provide employment services to unemployed clients and compete for a share of the labour market. Organisations will be paid largely on the basis of the employment outcomes they achieve. CES offices will cease to exist as such and staff and assets will be transferred to PEPE Ltd, the level of which will depend on the amount of business PEPE Ltd is successful in securing through the tender process. Unemployed clients will be able to choose the service provider they wish to assist them into employment.

3.11 In the case of the cruise ship project, a consideration of DEETYA Queensland was that there had been no major hospitality projects in Brisbane for some time. As well, because of the size and rate of job growth in the Hospitality Industry, the industry represented a major source of potential vacancies in the new employment placement service market.

3.12 The Department considers that under the new employment placement services market arrangements the scope for a recurrence of the problems associated with the SPCL contract will be substantially reduced. The new arrangements will rely heavily on a centralised tender process rather than on the decentralised, one-off negotiations that have characterised LMP spending for some time.

### ***Changes in DEETYA Queensland***

3.13 The Department commented that the significant changes occurring in DEETYA Queensland - in terms of its organisational structure, program responsibilities, management roles and staffing - affected the assessment of the cruise ship project and subsequent management of the contract. For example, arrangements were underway to transfer some CES functions to Centrelink (as part of the streamlining of government service delivery) and transition arrangements for the introduction of the new competitive employment placement market were being implemented. This led to senior management movements in DEETYA Queensland as the 'new DEETYA' organisation was settled. Further, in common with many public sector agencies, the Department was experiencing a large number of voluntary redundancies, resulting in a loss of experience and skills (DEETYA Queensland, particularly the Programs Area, faced a staff reduction of around 20 per cent).

### ***End of financial year - expenditure of Program funds***

3.14 In a briefing to the Minister on 2 September 1997, the Secretary advised that at the time the cruise ship proposal was being considered, there was an expectation from National Office that all Area Offices would expend

fully all LMP funds allocated for 1996-97. The Secretary also advised that National Office was concerned, late in the financial year, there was still a high level of unexpended funds.

3.15 DEETYA Queensland was aware that LMP funds would be substantially reduced in 1997-98 and therefore sought to reduce the level of financial commitment to be carried into 1997-98. DEETYA National Office have since advised the ANAO that, whilst DEETYA Queensland staff may have believed that LMP funds would be reduced, in fact funds were not reduced.

3.16 DEETYA Queensland also commented that, in terms of the 1996-97 Area Operational Plan, they were behind in job placements for the LTU, the number of positive outcomes for case managed clients and the target for expenditure. These factors added to the attraction of the cruise ship project as it guaranteed durable placements (largely due to the traineeship offered) for a large number of LTU clients along with the possibility of further jobs.

3.17 There seems little doubt that the desire to expend LMP funds prior to the end of the financial year was a significant factor in the decision to advance such a substantial amount of contract funds to the contractor.

## **Conclusion**

3.18 The ANAO considered that the prevailing climate in DEETYA Queensland, and within the Department, at the time that the cruise ship project was proposed had a significant influence upon the assessment and administration of the project.

3.19 In the Department's view, the project represented a major training and employment initiative. The project had been introduced through the National Office, the major proponent was a respected national training organisation (which, it was assumed, vouched for the employer), and there was also pressure to maintain program expenditure towards the end of the financial year and meet other performance targets.

3.20 The attractiveness of the project, which offered quality training linked to employment outcomes (in line with the Government's policy) for some of the most disadvantaged unemployed clients, was significant.

## 4. Contract Development and Management

*This chapter examines the assessment of the project proposal, the development of the contract, the subsequent administration and oversight of the contract up until the withdrawal of SPCL from the marketplace on 10 September 1997.*

*The ANAO concluded that the assessment of the proposal, particularly with regard to value for money, was inadequate and as well a number of departmental guidelines were contravened. The contract was poorly constructed and failed to define critical aspects of the project. Overall, the management of the contract as a project was lacking, as was the timeliness of remedial action by the Department. However, the Department successfully coordinated the operational aspects of the project to achieve the valuable outcome of accredited training for a reasonable number of long-term unemployed persons.*

### Introduction

4.1 In line with good management practice, the ANAO considers that the assessment of projects, together with the development of the contract and its administration, should be undertaken in accordance with relevant regulations and guidelines and risk management principles in order to ensure the project meets the Department's objectives. Value for money should be established before a contract is signed. The contract should include the necessary mechanisms for protecting the Commonwealth's interests, including risk management measures to avoid or minimise the risks presented by the particular project. Appropriate performance measures to assist effective management of the project should be included. As well, if problems do arise, the appropriate remedial action should be identified and taken in a timely fashion.

4.2 This chapter discusses the ANAO's findings in relation to the:

- assessment of the proposal;
- development of the contract;
- management and administration of the contract; and
- actions taken by DEETYA Queensland and National Office once problems became evident.

1.1



4.3 In reviewing each of these stages of the process the ANAO examined whether the appropriate guidelines had been applied and appropriate risk management practices had been followed.

## **Assessment of the proposal**

4.4 The decision by DEETYA to enter a Training for Employment Program (TEP) agreement for the cruise ship project was conditional upon the submission of a TEP proposal that met the necessary program requirements as outlined in the Department's TEP guidelines. The TEP guidelines do not describe the criteria for assessing a TEP proposal. However, the ANAO considers that the assessment of a TEP proposal should typically include an examination of:

- whether the proposal meets the general requirements of TEP;
- the ability of the training provider and the employer to deliver the required program outcomes, including (where relevant) undertaking financial viability and probity checks of the organisation;
- the training to be provided to participants, including an assessment of the status (that is, accreditation), cost and nature of the training to be provided (that is, is the training vocational in nature and linked to specific employment opportunities in the labour market);
- whether the proposal represents value for money; and
- the risks associated with the proposal, including whether risks identified are acceptable, and action to treat and monitor these risks.

### ***Assessing the proposal under LMP/TEP objectives and guidelines***

4.5 A 'Proposal for Labour Market Program Delivery' form<sup>8</sup> was completed by WA2000 at a meeting with Queensland-based officers of DEETYA on 10 April 1997. The LMP proposal completed at this meeting became a significant attachment to the formal agreement entered into by DEETYA in May 1997.

4.6 The assessment of the proposal was undertaken in the week following 10 April 1997 by an officer of the Program and Network Support Branch, DEETYA Queensland, based on the departmental guidelines relating to TEP specifically and to LMPs generally. The program officer who assessed the proposal was present at the meeting of 10 April 1997 and provided advice and assistance in relation to TEP requirements.

---

<sup>8</sup> This was a locally produced form that was developed based on information contained in the TEP guidelines. The guidelines provide a checklist of information required from providers when tendering for TEP projects.

4.7 The administrative guidelines for TEP cover the following program management requirements:

- the TEP objective and outcome measures;
- the types of training that can and cannot be approved under TEP;
- the methods of purchasing training under TEP;
- the financial management of TEP agreements, including payment arrangements (for example, advance payments), acquittals and cancellations and early cessations of training participants; and
- the management and administration of TEP, including monitoring and evaluation procedures for courses and trainees.

4.8 The Core LMP Guidelines include the arrangements for:

- the financial administration of LMPs (including delegations and advance payment processes);
- purchasing and managing LMP services (including criteria for suitable LMP providers, bank accounts for LMP funds and preparation and administration of LMP contracts); and
- monitoring LMP services (including termination of contracts).

4.9 All staff administering programs (LMP and others) are required to have recourse to the provisions of the Secretary's Management and Finance Instructions (SMFI) in assessing and managing projects, particularly SMFI 40 - Financial Management of Program Payments, SMFI 50 - Purchasing - and SMFI 46 - Legal Services. These documents require officers to adhere to directions and where there is doubt to seek advice.

4.10 The TEP guidelines state that the objective of TEP is to assist eligible job seekers gain unsubsidised or subsidised employment through the provision or enhancement of vocational skills. TEP provides training which is:

- linked to specific employment opportunities in the labour market;
- aimed at getting job seekers into jobs as quickly as possible;
- vocational in nature; and
- accredited wherever possible.

4.11 The program officer who assessed the cruise ship proposal considered the project met the requirements for TEP. However, the initial proposal submitted by WA2000 did not contain sufficient information about the training to be provided to participants to enable a full assessment against the TEP

guidelines. Further information on the training modules was not provided by WA2000 until 18 April 1997, three days after the program officer had recommended the proposal be given in-principle agreement. Nevertheless, the ANAO agrees that the cruise ship proposal came within the general program requirements for TEP.

4.12 The ANAO was advised that the assessment of the cruise ship project consisted of evaluating the proposal against a checklist derived from the TEP guidelines that deal with purchasing training under TEP. However, there is insufficient documentation available to establish the extent of analysis undertaken by the program officer against each of the items on the checklist.

4.13 The program officer advised the ANAO that he did not evaluate the proposal in detail as he believed it would be further refined during negotiations between WA2000 and the Department. The main purpose of the assessment was to determine whether the proposal met the requirements of TEP. It is evident, however, that the evaluation did not include a substantive assessment of:

- the capacity of either WA2000 or SPCL to deliver the training or employment outcomes<sup>9</sup>; or
- the financial viability of WA2000 or SPCL. Checks on the financial viability of SPCL were not undertaken until 11 June 1997, almost a month after the contract was signed, and in response to adverse media comment regarding the financial background of the directors of SPCL.

4.14 The ANAO was advised by DEETYA Queensland staff that it was not standard practice at the time the proposal was assessed to undertake financial checks of the viability of training providers or employers. The ANAO was also advised by DEETYA Queensland that the Core LMP Guidelines do not provide clear guidance on probity and financial checks. The ANAO has recommended that DEETYA revise its guidelines in this regard.

4.15 An internal report prepared by a National Office review team (dated 3 July 1997) commented on the processes followed by DEETYA Queensland in relation to the cruise ship project. In relation to the lack of financial checks, the report stated that:

---

<sup>9</sup> The TEP proposal was for the delivery of both training and employment outcomes. The training was to be delivered by WA2000 and the employment outcomes were to be delivered by SPCL. Initially the contract was to be between the Commonwealth and WA2000. As such WA2000 would have had legal responsibility for all deliverables required under the contract.

*'Due to the fact that SPCL was introduced by [WA2000] and was already receiving assistance from the Queensland State Government, DEETYA Queensland believed it had no reason to suspect any problems and thus did not conduct any [financial or probity] checks'.*

4.16 This statement does not accord with the advice provided to the ANAO by staff of DEETYA Queensland. The ANAO was advised that WA2000 had been introduced to DEETYA Queensland by National Office in February 1997. However, WA2000 had not operated in Queensland previously and DEETYA Queensland had no knowledge of WA2000 prior to the SPCL proposal. Further, staff of DEETYA Queensland commented that they knew very little about SPCL's dealings with the Queensland State Government until mid-June 1997, notwithstanding that a copy of some of SPCL's submission to the Queensland Government was provided to the project manager in March 1997. This timing was well after the date the contract was signed.

4.17 References in the Core LMP Guidelines to financial checks relate to the qualifying criteria for LMP providers. To qualify as a suitable provider of LMP services organisations must demonstrate their ability to meet the four qualifying criteria. Broadly these relate to:

- the organisation's background and capacity to deliver the specified training services. This includes provisions that the organisation not be in receivership, be being wound up or liquidated and that the office holders, directors or managers of the organisation not be undischarged bankrupts;
- the organisation's capacity to deliver quality services addressing identified needs of clients in a manner suited to the client group;
- the availability of staff with applicable skills; and
- the organisation having access to facilities and equipment appropriate for the services required.

4.18 The ANAO considers that DEETYA Queensland contravened the Core LMP Guidelines by failing to undertake adequate analysis or investigation of the financial background of WA2000 or SPCL for the purpose of determining whether either organisation met the LMP qualifying criteria for service providers. Significant problems could have been avoided if the guidelines had been adhered to.

### ***Training***

4.19 The program officer's assessment of the training to be provided to participants was based on information supplied by WA2000 after the 10 April 1997 meeting. The TEP guidelines state that training provided under TEP

should be accredited wherever possible. Accredited training is defined in the guidelines as:

*'a course or training program that is accredited by the State/Territory Training Authority which will result in either a credential or certification of competency of skills attainment being issued'.*

4.20 A list of standard, nationally accredited, hospitality traineeship course modules was faxed to the program officer by William Angliss Institute of TAFE on 11 April 1997. WA2000 advised that these details were generic and not the final product. A more detailed list of the modules to be delivered to participants, broken down by training stream, was supplied by WA2000 on 18 April 1997. The list included two new modules currently under development and not yet accredited. These were a Marine Safety Training Certificate (40 hours) and Introduction to Cruise Ships (20 hours).

4.21 The Department's program officer advised the ANAO that he recognised the list of modules as being standard hospitality training modules taken from the industry 'Black Book'.<sup>10</sup> These modules were nationally accredited and the program officer was therefore satisfied that the training would be industry accepted and that the modules would be the 'building blocks' of a traineeship credential.

4.22 On 23 April 1997, the program officer provided advice by Email to the project manager that a list of training modules had been received from WA2000 and all modules except one, Introduction to Cruise Ships, were nationally accredited. The program officer stated that if the remaining module was not accredited prior to participants undertaking the course, the credential for that module would be awarded once it was accredited.

4.23 The list of modules faxed to the program officer did not amount to an accredited course and contained two new modules that were not yet accredited. However, WA2000 had indicated in the TEP proposal that they would seek accreditation of the course and traineeship through the Office of Further Education and Training, Victoria. The Core LMP Guidelines state that:

*'Accredited modules may be adjusted by training providers to suit the needs of local employers without jeopardising accreditation. Contact should be made with the relevant State/Territory Training Authority to get confirmation of this prior to signing a contract'.*

---

<sup>10</sup> The Black Book is a reference book containing the details of nationally accredited training modules and courses.

4.24 There is no evidence to suggest that the relevant State/Territory Training Authority was contacted by DEETYA to confirm the accreditation of the training program prior to DEETYA signing the contract with SPCL.

4.25 The course, Certificate II in Hospitality (Cruise Ship Operations), was not accredited until 26 September 1997. This resulted from DEETYA's request on 12 September 1997 (after SPCL abandoned the cruise line project), to ANTA to 'identify a process which can ensure that [the trainees] gain an appropriate qualification'. This is further discussed in the section 'Management and Administration' (paragraphs 4.132 and 4.133).

### ***Value for money***

4.26 The extent to which the Department analysed the cost structure of the training program to be satisfied that the proposal offered good value for money, before committing the Commonwealth, is unclear.

4.27 On 15 April 1997, the program officer circulated a summary information paper to the Area Manager, through the Assistant Area Manager and the Manager Program and Network Support Branch (this was also copied to the project manager). The paper identified the overall cost of the project, and implicitly the value for money, as a major issue. The program officer commented that:

*'The unit cost, based on 340 participants, is \$8,220. While this is an above average cost, it is somewhat offset by the guarantee of employment outcomes (100 per cent) with good prospects of ongoing employment opportunities for the trainees'.*

4.28 Information provided to the ANAO by the Department indicated that the average unit cost of TEP proposals in Queensland around this time was less than \$3,000. Although this was not specifically raised by the program officer, it was likely to have been known to senior management responsible for approving the proposal. No justification for the high unit costs of the proposal was offered, nor did the program officer document any analysis of the credibility of the 'guarantee' of employment outcomes. (The employment outcomes represented a critical element of the proposal.) . The program officer suggested that, subject to the resolution of issues that required further clarification, it might be appropriate to grant the proposal in-principle agreement.

4.29 The ANAO considers that, as well as advising the Area Manager that the project met TEP requirements, the purpose of this minute was to provide advice to management on issues requiring further action, in particular the cost of the training to be provided. Nonetheless, there is no evidence to suggest

that the cost of the training was followed up by DEETYA Queensland prior to signing the contract.

4.30 The documentation reviewed by the ANAO contains many inconsistent representations of the cost of the training. Moreover, most of these representations have been provided since the contract was signed, in response to various DEETYA requests to WA2000 to clarify the cost structure of the training. These inconsistencies, which came to light during June 1997, do not appear to have been questioned. It has been argued (since the contract was signed) that the specialised nature of much of the training explained its high cost. The ANAO accepts that it may have been a contributing factor. Nevertheless, there is no evidence that other questions were raised, such as the impact on costs of having several parties contracted to provide services (it was known that WA2000 would sub-contract training to a local provider, and that other specialist training was required, such as safety-at-sea and technological aspects).

4.31 The program officer advised the ANAO that he had expected that the unit cost of the training would be examined by senior officers in further detail as part of the refinement of the proposal. This did not occur. The Area Manager commented that the advice of the program officer had been taken at 'face value' and the unit cost of the training was not examined in detail by the project manager or himself following approval by the Program Area.

4.32 The Department has since advised the then Minister that:

*'while [the cost of the project] is above the average TEP cost (around \$1,000) there is no established benchmark/precedent case for this type of project'.*

4.33 Finance Regulation 44(A) states that a proposal to spend public moneys should not be approved unless the person making the approval is satisfied that 'the proposed expenditure will make efficient and effective use of the public moneys'. Similarly, Finance Regulation 44(B) states that a person must not enter into a commitment requiring the expenditure of moneys unless satisfied that 'the Commonwealth is unable to obtain better value for the expenditure'. The ANAO considers that, by failing to make reasonable inquiries to determine whether the project represented value for money for the Commonwealth prior to entering into a contract with SPCL, the Department contravened Finance Regulations 44(A) and 44(B).

### ***Risk assessment of the proposal***

4.34 All decisions involve management of risk. The nature of the risks, and therefore the manner in which the risks will be managed, are clearly dependent

upon the context in which they arise. The ANAO considers that the somewhat unusual nature of the cruise ship proposal, the value of the contract (\$2.8m), and its high potential for public exposure, suggested that the key risks to program outcomes ('guaranteed' employment and accredited training) should have been substantively considered in a systematic manner and appropriately documented.

4.35 There is insufficient documentation available to establish the extent of the assessment of the risks associated with the cruise ship proposal. It is apparent, however, that no formal analysis was undertaken by DEETYA Queensland when the proposal was initially assessed or by National Office when the proposal was drawn to their attention.

### ***Conclusion - Assessment of the Proposal***

4.36 The ANAO considers the cruise line proposal was correctly assessed as meeting the overall scope and objectives of the DEETYA Labour Market Programs (specifically, the Training for Employment Program). However, the assessment was deficient in other areas. At the stage when the proposal was recommended for in-principle approval, it was not sufficiently clear in relation to many key issues, including the training proposed, its accreditation status, delivery mechanisms, cost and expected outcomes. Notwithstanding action by departmental officers to follow-up on these issues, they still remained unclear at the time the proposal was included in the formal contract. Further, the assessment contravened LMP guidelines by failing to consider the capacity of the contractor (whether it was WA2000 or SPCL) to deliver the employment outcomes proposed.

4.37 The ANAO considers that although DEETYA Queensland did not contravene the TEP guidelines in assessing the training to be provided to participants, contact should have been made with the relevant State Training Authority (Training Queensland and/or the Office of Training and Further Education in Victoria) regarding accreditation prior to DEETYA signing the contract. The ANAO acknowledges, however, that the project was operating on a very tight timeframe and the need to commence training in June 1997 may have affected decisions in this regard. The training course did not achieve accreditation until late September 1997, two weeks after the contract was terminated.

4.38 An important consideration in the assessment process was whether the contract represented good value for money to the Commonwealth. It is clear that this was not adequately considered at the time, and the question remains unresolved. The documentation contains many inconsistent representations of the cost of the training, most of them provided since the



contract was signed (see Appendix 1). The Department accepted the high unit cost of the training - acknowledged during the assessment process to be well above average - in return for the guarantee of employment outcomes. The ANAO considers that further analysis was required.

4.39 The Department has argued that there was little information on which to base the decision about whether the project represented value for money. Although, strictly, this may be so, the ANAO considers there was sufficient information available - at the very least the substantial difference between the average per unit cost of a TEP project and the costs of the proposal - to warrant DEETYA Queensland undertaking a more detailed examination of the costs associated with the cruise ship project to determine whether those costs were reasonable.

4.40 The latter did not occur. The ANAO therefore had to conclude that the Department's actions in this respect were inadequate. Although value for money is not a function of cost alone, cost is a key component. The attractiveness of the 'guaranteed' employment outcomes did not obviate DEETYA Queensland's responsibility to adequately consider the cost of the project or the prospects of achieving the employment outcomes.

4.41 The ANAO also considers that DEETYA did not adequately apply comprehensive risk management practices to the cruise ship proposal. In part, this may reflect the absence of clear guidance on risk management principles and practices in the program guidelines. Nevertheless, the absence of a substantive analysis of the risks associated with the proposal is a significant oversight.

## **Recommendation No. 1**

4.42 The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs:

- a) review TEP (and other relevant) guidelines and instructions to ensure the material provides adequate guidance on issues to be addressed when assessing a proposal against program objectives and value for money imperatives, including for example, financial assessment of potential contractual parties and the requirement to justify advance payments; and
- b) ensure the review has due regard to accepted risk management practices in the APS and be tailored to accommodate the diverse nature of potential contracted parties (for example, private sector companies or other government agencies).

## ***DEETYA Response***

4.43 Agreed. The Department will apply the recommendation to the extent it is relevant to new employment market services arrangements. The Department's Risk Management Strategy will be reviewed in early 1998 covering all DEETYA programs. External assistance will be sought.

4.44 The Department noted the ANAO's views about the perceived lack of risk management principles in the TEP and core LMP guidelines but considered that the principles were incorporated in various places in the guidelines. The Department acknowledged that the guidelines may have been lacking in practical guidance on how to assess and manage risks and advised that this is an area where the Department is planning to do more work as it moves to the new employment services market.

## **The contract**

4.45 The ANAO reviewed the contract itself to determine whether it was appropriately constructed to protect the Commonwealth's interests, including whether the outcomes to be achieved were clearly specified, whether adequate performance management measures were included and whether risks to the Commonwealth were addressed. The ANAO's findings in this area are discussed in the 'construction of contract' section below. This examination identified two key events in the process which had a significant impact on the overall project:

- the decision to contract with SPCL rather than WA2000; and
- advancing 80 per cent of the funds under contract before training commenced.

4.46 Because of their significance these two events are discussed in more detail under separate headings.

## ***Construction of the contract***

4.47 The ANAO considered whether the contract adequately defined the services that were intended to be delivered and the roles and responsibilities of the parties involved. In particular, the ANAO examined the outcomes that the contract was to deliver; performance measures included in the contract; the presentation of the contract; and whether appropriate and timely legal advice was sought.

4.48 Contract negotiations were based on the TEP proposal form prepared by WA2000 during a meeting on 10 April 1997. Although some further information was provided by WA2000 shortly after that meeting, there is little

evidence to suggest that significant negotiations took place concerning the terms of the contract, including payment arrangements.

4.49 Notwithstanding that most departmental contact concerning the proposal had taken place with WA2000, and that the proposal had been approved in-principle as an arrangement with WA2000, a standard TEP Agreement was entered into between the Department and SPCL and dated 16 May 1997. The contract covered the period 23 June 1997 to 29 August 1997. The 'transfer of ownership' for the project from WA2000 to SPCL is a significant event and is discussed in a separate section below (paragraphs 4.72 to 4.80).

4.50 The contract was given to the Assistant Area Manager for signature on 16 May 1997. However, the Assistant Area Manager (who was to become acting Area Manager on 19 May 1997) believed in error that he did not have the appropriate delegations at that time and was unable to sign the contract. The contract was signed by the Queensland State Manager (previously the Area Manager responsible for the project). The State Manager signed the contract without detailed review, on his assumption that the proposal had been carefully examined by the project manager and the contract had been cleared by the Assistant Area Manager. This was not the case. Had the contract documentation been thoroughly reviewed many subsequent significant problems with the project may have been avoided. The ANAO considers that the Assistant Area Manager should have given the documentation due consideration prior to it being forwarded to the State Manager.

4.51 An electronic version of the standard TEP agreement, including attachments (conditions and acquittal forms etc) is available 'on the computer system' within the Department. Typically, the process of preparing an agreement involves 'filling in the blanks' and the manual provides details on this process. The manual also states that should there be any concerns Legal Group must be consulted. In DEETYA Queensland this was commonly done by the Program and Network Support Branch. But in the case of the cruise ship project it was undertaken in the Business Development Unit by the project manager. This latter officer has advised the ANAO that he had little recent experience in contract preparation.

4.52 The contract prepared by the project manager generally follows the standard agreement, but it contains numerous inadequacies, is poorly constructed and reflects the project manager's limited contracting experience.

## **Outcomes**

4.53 Of considerable importance is the fact that the contract is unclear on critical aspects such as the services to be delivered and the outcomes to be achieved. In the clause that would normally have defined the services to be delivered the contract states:

*'Refer to the organisations Submission attachment 2' (sic)*

4.54 As discussed earlier, this submission is by no means clear, particularly concerning the training proposed; its accreditation status; delivery mechanisms; cost; expected outcomes; and the subsequent traineeship to be offered to successful participants. The submission had not been revised to take into account discussion between the Department and WA2000 since it was drafted (10 April 1997). But in any case, a number of these matters had not yet been finalised. The ANAO considers that the TEP submission attached to the contract does not adequately identify the services to be delivered by SPCL under the contract.

4.55 The same clause specifies that:

*'South Pacific Cruise Lines will sub-contract the management and delivery of the program to W Angliss 2000 p/l South Pacific Cruise lines will provide employment outcomes to graduates of the training program'. (sic)*

4.56 The inclusion of WA2000 as sub-contractor was a requirement of WA2000 as part of their agreement to transfer the main contract to SPCL.

4.57 Although the contract specifies that SPCL must sub-contract management and delivery of the program to WA2000, the ANAO considers the relationship between the two parties is not adequately defined. For example, it would have been prudent to have included, perhaps as a schedule to the contract, details covering the responsibilities of SPCL and WA2000, contact arrangements between the parties and invoicing procedures.

4.58 The contract provides that SPCL must place at least 70 per cent of the 340 participants referred to them by the Department in subsidised employment upon completion of the training course they attend. This is an employment outcome. Except for the information in the TEP submission attached to the contract it is otherwise silent on specific outcomes relevant to the training or subsequent traineeships.

4.59 The payment arrangements were stated as follows:

‘14. *Provided you have performed the contract to our satisfaction we will pay you the service fee of \$2,794,799.*

15. *Provided you have performed the contract to our satisfaction, we will pay you the services fee in advance in accordance with sub-clauses 2.3 and 2.4 of the Specific conditions. Payment of the services fee will be as follows:*

*First payment shall be \$2,235,839 being 80% of the agreed fee.*

*Final payment shall be \$558,960 being the balance of the agreed fee. This is to be paid after 70% of participants have been in continuous employment for a period of 6 weeks’.*

4.60 It is unclear to the ANAO how the Department could advance funds to SPCL under clause 15. With training not due to commence for over a month, the Department was not in a position to form an opinion about whether SPCL had ‘performed the contract to our satisfaction’. Furthermore, the clause does not indicate when the first payment would be made, although it implies that it would be made on signing. As discussed below, the arrangement for the advance payment contravenes the Department’s LMP/TEP guidelines.

4.61 The arrangement for the final payment, after 70 per cent of the participants had been in continuous employment for a period of six weeks, also contravened the guidelines. This final payment was to be made on the basis of a positive outcome for the client. The Core LMP Guidelines define a positive outcome under TEP as:

*‘a job seeker being placed into subsidised or unsubsidised employment for a **minimum** of 13 weeks’.*

4.62 The program officer advised the ANAO that the period of employment had been varied in the SPCL contract as it was considered that, once a client had completed six weeks employment under the supervised traineeship, there was no reason for SPCL to discontinue the traineeship. However, the Department has advised that the guidelines constitute directions to be followed and do not provide for interpretation of the definition of a positive outcome. (The ANAO was advised that the practice of reducing the defined term of employment for a positive outcome to six weeks was not uncommon in the Queensland area.)

## **Performance Measures**

4.63 Accountability and performance arrangements particular to the project have not been included in the contract. The standard TEP agreement includes a clause which states:

*'We will apply the following standards of performance or targets to assess the quality of the services you will provide. - [Specify criteria to be used to assess the standard of services provided and outcomes achieved OR refer to Department's specifications if appropriate]'*

4.64 This clause has not been included in the final contract. Apart from the 70 per cent/6 weeks condition referred to above, there are no specific standards or performance targets included. It may be possible to interpret the comments in the submission that training would be accredited or lead to accreditation as a performance standard, but such accreditation was 'to be supplied' and had not been confirmed at the date the contract was signed.

## **Presentation**

4.65 The presentation of the contract is unsatisfactory. Comments intended as instructions for departmental officers completing a contract have not been removed (as would be expected); there are typographical errors; and the numerical sequence of clauses is incomplete (there is no clause 8 or 9). The inclusion of the TEP submission as a primary attachment, although anticipated by the terms of the standard agreement, appears unprofessional in this instance. The appearance, as well as the substance of the contract, is indicative of the lack of professionalism, with likely adverse consequences for its effectiveness and for the confidence of the various stakeholders.

## **Legal aspects**

4.66 The contract was not referred to the Department's Legal Group prior to it being signed, although this may not be expected if the standard agreement is used. Nevertheless, in this case, where clauses were removed and specific additions included (including a new, non-standard clause) it would have been prudent to obtain legal clearance. Undoubtedly this would have identified many of the contract's shortcomings.

4.67 Following adverse media comment in June 1997, National Office sought the advice of the Legal Group regarding the contract. The advice concluded that, despite inadequacies and procedural failures, DEETYA was contractually bound to honour its agreement with SPCL.

4.68 Departmental officers have since been instructed that the 'Proposal for Labour Market Program Delivery' form must not be used as an attachment to contracts. Specific contract schedules should be prepared. Other requirements regarding sub-contracting have also been reinforced.

4.69 The lack of appropriate mechanisms in the contract to manage the risks associated with the SPCL project is a result of DEETYA Queensland not undertaking a considered risk assessment of the proposal. In part, this may reflect the absence of clear guidance on risk management principles and practices in the program guidelines.

## **Recommendation No. 2**

4.70 The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs ensure staff involved in the preparation of contracts and contract management are provided adequate training and guidance. Advice to officers should indicate circumstances when it would be appropriate to seek professional assistance in these matters.

### ***DEETYA Response***

4.71 Agreed. The Department is currently developing a training course to be made available to all officers managing contracts, particularly those administering contracts in the new employment services market.

### ***Why the Department contracted with SPCL***

4.72 It was DEETYA's intention throughout the negotiations leading up to the signing of the contract that WA2000 (the training provider) would be contracted to provide the TEP services. Indeed, by far the majority of discussions and correspondence regarding the cruise ship project was between DEETYA and WA2000.

4.73 On 7 May 1997 the CEO of SPCL contacted DEETYA's project manager, by telephone, seeking the Department's agreement to have the contract between themselves and DEETYA, rather than WA2000 and DEETYA. Apparently, this followed advice from SPCL's financial advisers that SPCL 'must list the TEP proposal in [SPCL's] prospectus otherwise the company will list financial information that is erroneous and which significantly understates the companies financial position'. The project manager did not seek written confirmation of this request (for example, a copy of the proposed prospectus) and no documentation was offered by SPCL.

4.74 The project manager sought and received verbal advice from the program officer that the change required an exchange of letters, agreeing to

the transfer, between the parties. The program officer did not consult senior officers of his Branch prior to giving this advice nor did he check with Legal Group, National Office, about this change. The advice was based on his assessment of the situation because the Core LMP Guidelines do not deal with this issue. The State Manager was not briefed on the change prior to signing the contract and remained unaware that the contract was with SPCL until a discussion with the Minister's Office on 11 June 1997.

4.75 WA2000 agreed in writing to this change on 7 May 1997 on the condition that the alteration include 'an approval for SPCL to sub-contract delivery of the project and management to WA2000 Pty Ltd'. On 13 May 1997 SPCL agreed in writing to this condition.

4.76 The ANAO considers that it would have been prudent for the matter to have been referred to Legal Group for their views on the implications of contracting with SPCL rather than WA2000.

4.77 The Department advised the Senate Legislation Committee on 1 October 1997:

*'The officers involved have told us that, in considering this approach, they were less swayed by [SPCL's claim concerning their prospectus] than by the advantages of tying the prospective employer, South Pacific Cruise Lines, more closely to the arrangements and, in so doing, strengthening the likelihood that required outcomes would be achieved'.*

4.78 The ANAO has found no substantive evidence that the decision was swayed by the advantages of more closely linking the employer to the arrangements as claimed by the DEETYA Queensland officers.

4.79 There is also little evidence that consideration was given to SPCL's application with the Queensland Government for assistance under the Major Projects Incentive Scheme throughout the period of negotiations leading up to the contract being signed. The ANAO considers that it would have been prudent for DEETYA Queensland to have further investigated the nature of SPCL's dealings with the Queensland Government, particularly prior to the company's request to 'transfer' the contract to SPCL.

4.80 The ANAO considers that the decision to enter the TEP contract with SPCL rather than WA2000 was not subject to adequate discussion or consideration by senior officers. Officers involved did not consider the claims made by SPCL and the risks to the project that the 'transfer of ownership' would entail.



## **Advance Payment**

4.81 The justification for making an advance payment of \$2.2m - 80 per cent of the total contract cost - was not documented, and the nature and extent of discussion in relation to the decision to make an advance payment is not clear to the ANAO.

4.82 The project manager advised the ANAO that he sought the advice of the program officer in relation to advance payments and was advised that the TEP guidelines provided for advance payments. The program officer confirmed that this was the extent of his involvement in the decision to advance funds.

4.83 The summary information paper outlining the proposal developed by the program officer on 15 April 1997 did not mention an advance payment nor offer advice on the circumstances under which an advance payment may be made. Although correspondence in March 1997 raised the issue of an up-front payment of around \$700,000, the proposal submitted by WA2000 made no request for an advance. There are no records of any negotiations with either WA2000 or SPCL regarding an advance payment.

4.84 However, the Area Manager sent an Email to the National Program Manager on 15 April 1997 stating that:

*'Area Queensland Central will this week complete negotiations with William Angliss who are setting up a new cruise ship venture with SPCL ... The TEP element will cost approximately \$2.6 million, with \$2.2 million (80%) 'up front' this Financial Year ... with a view to national management of the TEP Budget as we approach the exit to the Financial Year, I felt I should alert you to our commitment to a project of this magnitude.'*

4.85 This advice was provided to National Office approximately two weeks before the Area Manager gave in-principle approval to the project. It may be deduced from this Email that the decision to advance 80 per cent of the contracted price was made early in the assessment phase of the proposal.

4.86 The then Area Manager maintains that the advance was warranted given the costs associated with the recruitment and selection of trainees, developmental costs of training, short timeframes and WA2000's reputation as a quality training provider. The uncertainty of the next year's budget, coupled with the Area being behind on spending for the financial year, also influenced the decision.

4.87 The then Area Manager, and a number of other officers involved in this project, commented that the advance was within the terms of the TEP guidelines. The Core LMP Guidelines state that:

*'advance payments are not the standard method of making payments. They should only be made in exceptional circumstances if this is a requirement of the provider that has been specified in a written agreement'.*

4.88 The guidelines also provide that:

*'All information relating to the making of advance payments must be fully documented, including the justification, and maintained on file'.*

4.89 As mentioned, there is no evidence of any written justification (or request) for an advance apart from the correspondence in March 1997. Even this correspondence indicates no endorsement by the project manager or any other officer, and it was for a considerably lesser sum than \$2.2m.

4.90 DEETYA Queensland has contravened both of the above guidelines in making the 80 per cent advance payment under the contract.

4.91 In addition, SMFI Number 40 links checks of the financial viability of an organisation to decisions to advance funds and states that:

*'before making an advance payment, the financial viability of the organisation must be checked or a bank guarantee obtained'.*

4.92 By failing to undertake these checks prior to contracting to make a substantial advance payment, DEETYA Queensland has contravened SMFI 40.

4.93 DEETYA Queensland has also contravened Section 8D of the Commonwealth's Finance Direction relating to payment for supplies in advance, which states that:

*'[such] an agreement ... must not be entered into merely to avoid the lapsing of an appropriation or if the early draw down of cash to meet the payment would result in an adverse cash management outcome for the Commonwealth as a whole'.*

4.94 The discussion in the Finance Directions about payments made in advance of satisfactory performance or delivery includes:

*'appropriate arrangements should be made to protect the interests of the Commonwealth (for example, in some circumstances performance guarantees such as the lodgement of security may be required)'.*

4.95 Appropriate arrangements were not in place.

4.96 The decision by DEETYA Queensland, to make a substantial advance payment to expend program funds prior to the end of the financial year, contravenes Finance Direction 8D.

4.97 It appears that it was common practice to make advance payments in the South Queensland areas, notwithstanding that the guidelines state that advance payments should only be made in exceptional circumstances. In a report to the then Minister on 2 September 1997 the Secretary advised that:

*'payment of an advance was in line with the general procedures followed in the South Queensland areas'.*

4.98 An examination of the 186 TEP projects commenced in the Area during the period 1 March 1997 to 1 September 1997 shows that an advance payment was made in 63 per cent of cases and an advance of 80 per cent was approved in 56 per cent of cases.

4.99 The Core LMP Guidelines also deal with the timing of advance payments and the links between the final payment under the contract and the achievement of the minimum outcome levels specified in the contract. The guidelines state that:

*'the first advance is paid on signature of the agreement or as stipulated in the contract and no more than two weeks before delivery of the service commences'.*

4.100 On 26 May 1997, following the signing of the contract, the program officer sent an Email to the project manager providing advice on the timing of the advance payment. The services under the contract were due to commence on 23 June 1997. The first payment - the advance - was made to SPCL on 6 June 1997. This is more than two weeks prior to the commencement of services (albeit by only a matter of days) and amounts to a further contravention of the Department's administrative guidelines relating to advance payments.

4.101 In dealing with the issue of advance payments the Core LMP Guidelines seek to safeguard advances of Commonwealth funds in a number of ways. For example, the guidelines state:

*'Providers must have a separate bank account (which is to be used only for DEETYA LMP funds) for depositing, holding and disbursing LMP advance payments where the total of the funds advanced to the provider for all programs and projects exceeds \$10,000 at any one time'.*

and:

*'The signatories on the bank account must be limited to executive directors, senior accountants and senior level officers with the provider's organisation.*

*At least two signatories of those officers are required to sign any withdrawal and expenditure of funds and the provider must agree to:*

- *notify its banking or financial institution of this requirement; and*
- *provide a copy of this advice to DEETYA'.*

4.102 SPCL provided their bank account details to DEETYA on 16 May 1997 for inclusion in the contract. However, there is no evidence to suggest that details of the signatories to the account were provided (or requested) prior to that date. The failure to obtain details of the banking arrangements contravenes Core LMP Guidelines. This became of some concern in mid-June 1997 when questions were being asked about the validity of some payments from the DEETYA funds and the Department realised that the only signatory to the account was the CEO of SPCL. Surprisingly, this latter point does not appear to have been pursued by either DEETYA Queensland or National Office.

4.103 The Secretary's 2 September 1997 report to the then Minister concluded:

*'while there are mitigating circumstances for the advance payment of 80 per cent of the contracted amount - particularly the advantages of using 1996/97 LMP funds - the actual amount that 80 per cent represented (\$2.2m) required greater prudence than was shown. Advances of 80 per cent of funds usually applies in courses where the total course costs may be in the order of \$30,000 - \$50,000. An advance of this level, and the absence of proper financial checks could have exposed Commonwealth funds to risk'.*

4.104 The ANAO agrees that greater prudence was needed. Moreover, following SPCL's withdrawal from the cruise ship venture, the interests of the Commonwealth, and Commonwealth funds, have been exposed to risk. The decision to advance payment to the contractor was made prior to DEETYA

transferring the contract from WA2000 to SPCL, and does not appear to have been reviewed prior to the transfer.

### ***Conclusion - The Contract***

4.105 The ANAO considers that deficiencies surrounding the development and awarding of the contract resulted in unnecessary exposure to risk for the Commonwealth. Although based substantially on a standard TEP agreement, the contract was unclear on critical aspects such as the services to be delivered and the outcomes to be achieved. Accountability and performance arrangements and requirements specifically tailored for the project were not included. As well, the relationship between the contractor and sub-contractor (that is, SPCL and WA2000 respectively) was not adequately defined. The contract documents were not checked by the relevant senior officers and were not presented to, or discussed with, the Department's Legal Group before issue.

4.106 It was unclear to the ANAO how the first payment would follow satisfactory performance as required in the contract, given that training would not commence for over a month after the signing of the contract. The ANAO considers that DEETYA Queensland contravened the departmental guidelines in interpreting the definition of a positive outcome, with the result that the final payment to SPCL would be after 70 per cent of trainees were in continuous employment for six, rather than 13, weeks.

4.107 The last minute decision to contract to SPCL rather than WA2000 (which had been the chief proponent in the negotiations) was not documented and, in the ANAO's view, seemed ill advised. Although the Department has stated that the reason for contracting with the employer rather than the training provider was to more effectively tie-in the expected employment outcomes, there is little evidence to this effect. Such an approach may well have proved to be appropriate. But it would have been prudent to have considered much more carefully the claims made by SPCL and the risks to the project (and the Commonwealth funds) that the 'transfer of ownership' obviously entailed. There was no indication that the Department gave these matters any consideration. Legal or financial advice on the implications of the 'transfer' was not sought. As a consequence the Department failed to conduct any financial viability checks on the contractor before awarding the contract or making the advance. Neither did they consider whether some form of security over the advance (such as a bank guarantee) was warranted.

4.108 The ANAO considers the decision to make an advance payment of 80 per cent of the contracted costs is difficult to justify on any grounds other than noting that DEETYA Queensland was under some pressure to expend a large

sum of LMP funds before the end of the financial year. The proposal did not call for an advance. The advance contravened the Department's Core LMP Guidelines and contravened the Commonwealth's Finance Direction 8D by not taking appropriate measures to protect the Commonwealth's funds in making an advance payment. In any event, the reasons for the level of advance were not documented for accountability purposes and in accordance with good management practice.

## **Management and Administration**

4.109 The Department has acknowledged deficiencies in the assessment of the proposal and development of the contract including breaches of program guidelines and that this led to a contract that was not clear in a number of key aspects. This had a flow-on effect on the subsequent administration and management of the cruise ship project and limited the Department's options in dealing with SPCL and WA2000. Nevertheless, the Department considered there was sufficient evidence to suggest that the contractual arrangements were being honoured and it is in this light that DEETYA decided that its best option was to continue with the project, as contracted with SPCL.

4.110 The ANAO considered the Department's management of the contract, particularly in the light of the problems that arose with the project. In particular, the ANAO examined how the SPCL contract was managed as a project, and the timeliness and level of action of the Department once problems were evident. The ANAO also examined the events surrounding the contract variation. The ANAO discussion below has had regard to the evidence available during the period of the contract.

### ***Project Management***

4.111 At a meeting in February 1997 involving officers from the National Office and DEETYA Queensland and the CEO of WA2000 it was confirmed that responsibility for the development and management of the project would be taken locally by DEETYA Queensland. An officer from DEETYA Queensland was assigned as the principal contact and project manager. The ANAO considers that a proposal of this consequence warranted effective project management from the outset, with appropriate delineation of responsibilities, tasks, deadlines, concern for accountability and lines of communication. The responsibilities of the project manager were not defined and the ANAO considers their absence has led to confusion among some officers and undoubtedly added to the difficulties experienced by the Department in the management of the cruise ship project.

4.112 The project manager advised the ANAO that he did not see himself as the project manager and his main role in the SPCL project was to liaise with WA2000 and SPCL and act as mediator when tensions arose. Further, he considered that the management of the project would have sat more appropriately within the program area given the number of program issues involved, for example, accreditation of training, the traineeship and the contract extension. Alternatively, the management of the contract could have been handed back to the CES network as was the more usual arrangement with TEP projects. However, the Department acknowledged that this was an unusual project which would involve a number of CES offices. It was for this reason that management of the contract fell to the officer from the Business Development Unit who became project manager.

4.113 Nevertheless, there appears to have been some confusion in an operational sense. For example, the project manager did not follow-up the accreditation of the training program (that is, for the course and the traineeship) because it was assumed to be a responsibility of the program area. The program area, however, did not pursue the matter as its main involvement (at that stage) ceased with the assessment of the proposal. The question of accreditation was not resolved until September 1997. It was also noted, by a National Office review team visiting DEETYA Queensland, that there were two separate files being kept on the SPCL project - one in the program area, and one held by the project manager. In mid August 1997, management of the project was handed to the program area so that there would be one point of contact.

4.114 As discussed earlier, the ANAO considers that the relationship between SPCL and WA2000 was not adequately defined in the contract. Further, the Department did not establish protocols for communication with the parties about program delivery or contract matters. Consequently, most of the communication was between WA2000 and DEETYA even though the contract was with SPCL. Indeed, the project manager advised the ANAO that he was receiving so much correspondence from WA2000 that some letters were merely filed. This is unfortunate, because some WA2000 correspondence drew attention to issues that were significant and should have prompted action by the Department (for example, WA2000 inferred on a number of occasions that SPCL's accountability for DEETYA funds was inadequate).

4.115 In August 1997 DEETYA Queensland became concerned about WA2000 making representations about contract issues and resolved that 'from now on both the Department and SPCL adhere to appropriate communication lines'. In a letter to SPCL, copied to WA2000, the Queensland State Manager advised that the appropriate line of communication regarding contract negotiations must be between SPCL and DEETYA as the two contracted

parties. SPCL did not reply to this letter, but WA2000 responded, reminding DEETYA that they (WA2000) were sub-contracted as the 'project manager'. DEETYA did not respond.

4.116 The ANAO considers that this exchange of correspondence is illustrative of the confusion surrounding the management of this project.

4.117 The ANAO concludes that project management of the cruise ship project was haphazard and the accountability for the project suffered as a result. The problems centre around the development and administration of the contract itself, rather than the delivery of services. The ANAO acknowledges that the outcomes of the training objectives of the project represent a significant achievement. The coordination of activities and people for the selection of participants (over 2,000 interviewed and tested for 340 positions) and delivery of around twenty concurrent training modules for the participants (including individual case management and payment of various allowances) was handled smoothly and without notable incident. But clearly, the employment outcomes were not achieved, the financial accountability has been lacking and the finalisation of the training outcome - in the form of an accredited qualification for participants - was a late achievement and followed intervention by the Department's National Office.

### **Recommendation No. 3**

4.118 The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs put in place arrangements to ensure major proposals/projects under Labour Market Programs, or similar programs, are properly project managed in that:

- the roles and responsibilities of parties involved are clearly defined, including State and National Office roles;
- experienced and appropriately trained officers are nominated (and available) for key roles;
- reporting and accountability arrangements are established, including the requirement to adequately document key decisions and actions; and
- overall management and supervision occur at a sufficiently senior level to ensure effective outcomes.

### ***DEETYA Response***

4.119 Agreed.



4.120 The Department accepted the conclusion that there was some lack of clarity regarding the roles of individual officers initially responsible for elements of the SPCL negotiations. However the Department considers that the finding that it did not adequately manage the subsequent administration of the contract with SPCL undervalued the efforts the Department made. The Department commented:

*'As soon as concerns arose in June 1997 the Department increased its management of the project. National Office sent a team to Brisbane to review developments, the State Manager appointed a further officer to work on the project, the Project Manager closely monitored arrangements to ensure funds were flowing to the training providers and that clients were being trained. Efforts were increased to establish the viability of SPCL and the whereabouts of the ship, and the accredited basis of the training. As a result of this increased management the Department ensured that \$1.5m of the \$2.2m advanced was paid to the training providers and some 270 clients received training.'*

### **Managing and monitoring problems**

4.121 National Office involvement in the management and monitoring of the cruise ship project first occurred in mid June 1997 following media speculation about the background of two of SPCL's directors. A National Office review team visited DEETYA Queensland to examine the process leading up to signing the contract and the advance payment.

4.122 The result of the National Office review was a report, dated 3 July 1997, which identified that 'a number of things had not been managed properly in the contract negotiations'. The review also identified a number of breaches of program guidelines. However, it was also stated that 'there is no evidence so far to suggest that the project is in jeopardy or that any fraudulent activity has been undertaken'. Nevertheless, the review recommended closer monitoring of the contract (including fortnightly meetings with all parties and reports to National Office) and the negotiation, with SPCL, of procedures to ensure the transparency of funds management.

4.123 The report was not formally conveyed to DEETYA Queensland until 25 July 1997 - more than a month after the visit and three weeks after it was completed. Given the importance of the recommendations contained in the report, the ANAO is surprised that National Office did not act in a more timely manner. The recommendations in the report do not appear to have been actioned by DEETYA Queensland and it is not apparent whether there was any follow-up from National Office. DEETYA have since advised that monitoring of training and funds flow was increased and, given that the contract was in place

(and seemingly being performed), this was the most time critical response required.

4.124 On 23 June 1997, the Area Manager sought evidence that DEETYA funds were not at risk by requesting a copy of SPCL's bank statement. An extract, which did not cover the full period from which DEETYA paid funds to SPCL, was provided to the Area Manager by facsimile. The Area Manager advised National Office that DEETYA funds could be accounted for but expressed concern that the CEO of SPCL appeared to have sole control over the bank account. There is no indication, however, that DEETYA Queensland sought evidence of the signatories to the account and an original bank statement in order to satisfy itself that Commonwealth funds were not at risk. (DEETYA Queensland had not sought details of the account signatories before the contract was signed, as required by the TEP guidelines.)

4.125 On 24 June 1997, as a consequence of the visit to Queensland by the National Office team, National Office sought advice from the Department's Legal Group concerning action the Department could take to protect the Commonwealth's funds advanced under the agreement with SPCL. Around the same time the project manager became aware of tensions between the respective CEO's of SPCL and WA2000, largely as a result of SPCL not forwarding moneys to WA2000 in line with WA2000's expectations. The project manager played an intermediary role by requesting SPCL to pay WA2000's invoices. He also became aware that SPCL had made a payment to WA2000 of \$79,278, out of DEETYA funds, for activities not related to the contract.

4.126 In early July 1997, the Legal Group advised that under the contract SPCL was required to lodge Commonwealth funds in an account used exclusively for the contracted services, to account for the use of those funds and that DEETYA had the right of access to SPCL's financial records. On the issue of the misused funds, the Legal Group advised that DEETYA Queensland should exercise its right of access to SPCL's financial records and a draft letter to SPCL was offered. This letter was not prepared and issued to SPCL at this time. The Department eventually sought to invoke its rights for access to SPCL's records on 9 September 1997, as a result of an internal audit investigation (this investigation is discussed in further detail in Chapter 5).

4.127 The project manager queried both SPCL and WA2000 concerning the payment of \$79,278 and identified that it related to an arrangement between the two parties separate to the DEETYA contract. The matter was 'resolved' by SPCL adjusting a subsequent WA2000 invoice. However, the ANAO considers the payment represented a serious breach of the terms of SPCL's contract with DEETYA and warranted further action by the Department. Implementation of a recommendation in the report discussed in paragraph 4.122 to ensure the

transparency of funds management would have been appropriate, but such action does not appear to have occurred. Further, written advice from WA2000 inferring that there may be problems with SPCL's management of the Commonwealth funds should have significantly raised the profile of this issue.

4.128 Media speculation in mid June 1997 had questioned the existence of a cruise ship. There is little doubt this remained an important ongoing issue. DEETYA Queensland made numerous verbal and written requests for proof of acquisition of a vessel, and received many assurances from SPCL, from mid June 1997 up until late August 1997 when a contract variation was signed to allow completion of the training. For example, DEETYA informed the then Minister, in the first briefing specifically on the cruise ship project (12 June 1997) that SPCL's advice was to the effect that a lease was 'imminent'. On 17 June 1997 SPCL said the acquisition of a vessel would be finalised within eight working days.

4.129 DEETYA's Legal Group advised National Office on 2 July 1997 that, as the purchase of a cruise ship was an essential ingredient in DEETYA entering into the contract with SPCL, if evidence of the acquisition of a vessel was not 'forthcoming next week [by 9 July 1997] then DEETYA must reassess its position'. There is no evidence that this advice was followed up at that time.

4.130 Early in July SPCL issued a media release that gave details of a ship, and a sailing schedule. Notwithstanding this media release, the inability of SPCL to provide firm evidence at this stage of the project for the lease of a vessel should have been a constant concern to the Department because it put the likelihood of the contract's employment outcomes at appreciable risk. It should also have been apparent that delays in leasing a vessel were likely to impact on the planned sailing schedule for the cruise ship with probable consequences for DEETYA with respect to the subsidies paid to the training participants. Although the Department's options in dealing with this issue, to protect the Commonwealth's funds and secure the training and employment outcomes of the project, were limited, as the expected end-date of the contract approached they became even more so.

4.131 The status of the training under the contract and finalisation of the traineeship arrangements, which formed the backbone of the contract, was not handled well by the Department. The attachment to the contract with SPCL showed that further work was necessary to finalise these matters and WA2000 in particular provided DEETYA with documentation to show that although work was progressing it was delayed. But, as mentioned at paragraph 4.113, these issues were not being followed-up by DEETYA, as the ANAO would expect, given this was a key project outcome and that the status of the training and the traineeship were not resolved prior to the contract being entered into. For

example, there is no evidence to indicate that DEETYA was aware that WA2000's initial application to accredit the traineeship had stalled. It should also have been of considerable concern to DEETYA that WA2000 had not formally submitted an application regarding the traineeship to Training Queensland until 14 August 1997, just two weeks before the contract was due to terminate and successful participants were due to commence their traineeship with SPCL.

4.132 When SPCL announced on 10 September 1997 that it was abandoning the cruise ship project, it became apparent that the trainees were not eligible to receive a nationally accredited certificate. With no employer, the traineeship clearly ceased to be an option. Moreover, the Department was concerned to maximise the benefits to the participants of the training they had undertaken. With this in mind DEETYA National Office contacted the Australian National Training Authority (ANTA) on 12 September 1997 asking ANTA to:

*'inquire into the position of these young people and, if necessary, identify a process which can ensure that they gain an appropriate qualification from this training experience'.*

4.133 ANTA undertook an investigation which was concluded on 19 September 1997 and issued a progress report to DEETYA on 22 September 1997. The Authority identified a process to ensure the trainees could receive an appropriate qualification and resolved some outstanding matters before issuing a final report to DEETYA on 29 September 1997. ANTA advised:

- the training was not an accredited course in itself, although transferable and nationally recognised at the module level. It was subsequently augmented through additional training;
- the training meets established industry needs and will be of value in the employment market; and
- the combined pre-employment training and additional modules did not fit within the content boundaries of any relevant accredited course. Processes were initiated by ANTA to accredit the course as a Certificate II in Hospitality (Cruise Ship Operations) through the auspices of the Office of Training and Further Education in Victoria. This course was officially accredited on 26 September 1997.

### **Contract Variation**

4.134 On 22 July 1997 WA2000 informed the project manager that the project timelines had slipped. On 1 August 1997, WA2000 provided a training schedule that showed training extending beyond the contract dates. (Training

should have been completed by 29 August 1997.) It was several days later, after he had become aware of trainees advising the CES that their training would continue outside the contract dates, that the project manager contacted WA2000 to highlight the need for a contract variation.

4.135 On 11 August 1997 DEETYA Queensland Branch Manager notified SPCL that:

*'if the training is to be continued beyond 29/8/97 DEETYA will need a detailed proposal outlining the nature of training, a timetable of when and where such training will take place ... Any additional costs approved by DEETYA would be confined to training allowances for the trainees'.*

4.136 SPCL was also told that DEETYA required evidence of the acquisition of a vessel before any variation to the contract would be made. SPCL submitted a written request for a contract variation on 15 August 1997. The extension was required to complete the training program, late because of delays in securing the vessel, and to ensure continuity of the participants' pre-employment training until they joined the vessel in Singapore for its return trip to Australia.

4.137 DEETYA advised the ANAO that the contract variation was very important - without it, trainees would be returned to the unemployment system and forced to go home. If WA2000 or SPCL had continued the training outside of the contract then there was a major issue regarding insurance for the trainees. A short timeframe applied to the finalisation of the contract variation as the contract was nearing completion; as there was still no ship available, the intention was that some of the ship-based training would be done on land in the meantime.

4.138 On 18 August 1997 the State Manager received by facsimile a signed lease. National Office was notified accordingly. Although the State Manager had some concerns about the validity of the lease, and sought to allay them by sighting the originals of the documentation, the lease was not sent to Legal Group for expert opinion. The State Manager approved the contract variation on 20 August 1997, extending the training program to 12 September 1997. The ANAO considers that it would have been prudent to seek legal advice on the validity of the lease prior to the contract being varied.

4.139 The lease documents were referred to the Legal Group for advice by the Internal Audit Branch in September 1997. The Legal Group advised that the document may be a valid agreement, although undated and containing inconsistencies. However, they did not consider that this documentation alone

substantiated the existence of a formal lease for a particular vessel because there was no evidence to indicate that the required payments had been made.

4.140 It is unclear to the ANAO whether a valid lease for a vessel ever existed. Nevertheless, the contract variation, on which the vessel lease was predicated, was made notwithstanding the doubts of Area officers about the validity of the documentation.

4.141 DEETYA Queensland were aware from an early stage that SPCL and WA2000 were having dealings with the Australian Maritime Safety Authority (AMSA) about safety-at-sea training. However, it is unclear whether DEETYA Queensland were aware that AMSA were also monitoring SPCL's attempts to acquire a vessel. Neither DEETYA Queensland nor National Office had any communication with AMSA and therefore were not privy to AMSA's investigations. AMSA's information would have provided an indication to DEETYA that it should have been less assured about the success of SPCL's venture, despite SPCL's overtures. This situation indicates that it is always useful for program managers to consider whether other Commonwealth agencies may have relevant information for their programs and ensure that they at least seek access to it.

### ***Conclusion - Management and Administration***

4.142 The ANAO considered whether the role and level of involvement of key departmental officers were appropriate to the circumstances. It was appropriate for the Department to administer the project through DEETYA Queensland and initial involvement of National Office was also appropriate. However, the lack of experience of some officers in contractual negotiations and management may have contributed to some of the more critical administrative breakdowns. So, too, the failure of both the Queensland and National Offices to follow-up the implementation of internal recommendations aimed at addressing concerns for the security of the program funds.

4.143 Also of significance, however, was the failure of DEETYA Queensland to manage the contract effectively as a public project, with appropriate delineation of responsibilities, tasks and deadlines including due consideration for accountability (involving, for example, analysis and assessment of risk). The ANAO considers that a proposal of this nature and significance (involving tight timeframes, and many different areas of the department as well as a number of contractors and subcontractors) required sound project management from the outset. Had DEETYA implemented appropriate project management principles the ANAO considers many of the departmental administrative breakdowns would have been avoided.

4.144 Early internal recommendations to strengthen management control do not appear to have been acted on. Similarly, early indications of tensions between the contractor and sub-contractor, and signs of possible delivery problems, which would have placed the project at risk, do not appear to have been consistently or definitively handled. The opportunity was not taken at an early stage to enforce the contractor's obligations under the agreement. This further exposed the risk to Commonwealth funds.

4.145 The ANAO considers that moves to involve National Office once the adverse criticism was raised were appropriate and timely but recommendations arising from National Office reviews of the contract and preceding events were not followed-up. Consequently, action to strengthen management practices was not implemented in a timely manner.

4.146 The ANAO considers the decision to extend the contract to allow completion of the training was appropriate and well considered given the timing of the request and the limited options then available to the Department. However, DEETYA Queensland failed to involve, in a timely manner, the Legal Group in providing legal opinion on the documentation purporting to support the lease of a vessel. Although no further funds were provided to the contractor it would have been prudent to seek legal assistance before the contract was extended.

## **Overall Conclusion**

4.147 As discussed in the previous chapter, the Department's decisions in relation to the cruise ship project were markedly influenced by the prevailing climate in the Department. Nevertheless, the ANAO considers the Department did not manage adequately the development of the cruise line proposal and the subsequent administration of the contract with SPCL (up to the date of the termination of the contract). In failing to do so, the Commonwealth has been unnecessarily exposed to a significant level of risk and the possible misdirection of program funds.

4.148 Inadequate documentation of the management of the project has hampered the ANAO's investigations. The Department's Internal Audit Branch also acknowledged the limited nature of the documentation, in a report resulting from its review of the project. In particular, there was little documentation of some important developments that were handled by telephone or electronic mail and records were not made of the outcomes of some key meetings. Further, the available documentation often shows little evidence of the manner in which the issues raised in the documentation were dealt with by the officers involved. The ANAO considers that record keeping practices require improvement.

4.149 The ANAO considers that the Department did not adequately apply risk management practices to the project. In part, this may reflect the absence of clear guidance on risk management principles and practices in the program guidelines. Nevertheless, it is clear that neither DEETYA Queensland nor National Office undertook a considered risk assessment and analysis of the cruise line proposal. The ANAO considers the numerous contraventions of the Department's Core LMP and TEP guidelines an avoidable consequence of this failure.

4.150 The ANAO considers that the assessment of WA2000's proposal was inadequate as it failed to effectively highlight issues, such as obtaining value for money and accreditation of training, that needed to be further examined and negotiated before project approval could properly be granted. The assessment did not include financial checks of either WA2000 or SPCL. DEETYA Queensland also did not adequately consider the cost of the project.

4.151 The ANAO considers that the contract that DEETYA entered into did not adequately specify critical aspects of service delivery and outcomes to be achieved, nor did it include performance arrangements specific to the project. The relationship between the parties, including WA2000, was not adequately defined. Notwithstanding that the standard TEP contract had a non-standard clause added, legal advice, which would have identified the shortcomings in the contract, was not sought.

4.152 The ANAO considers that the decisions by DEETYA Queensland to contract with SPCL rather than WA2000, and to advance \$2.2m to SPCL weeks before training was to commence, were ill advised. Making the advance payment contravened departmental guidelines and Commonwealth Finance Direction 8D. The reasons for making these decisions were not adequately documented, and the ANAO considers that both decisions are difficult to justify.

4.153 The ANAO acknowledges that deficiencies reflected in the contract, and the subsequent advance payment to SPCL, limited the options available to DEETYA in dealing with problems as they arose. However, the project documentation indicates a 'management by crisis' approach that is inconsistent with good practice. Although responses to these crises were at times appropriate and timely, the ANAO considers that overall neither the project manager, nor National Office, adequately managed the contract. Of significance in this respect is the apparent failure of DEETYA Queensland or National Office to follow-up outstanding issues or act on information that became available which suggested appreciable risks to the project. This is again indicative of the general confusion over roles and had the effect of further limiting those options.



4.154 Notwithstanding the above, the Department has provided substantial and significant training, at a now accredited and industry accepted level, to more than 300 long-term unemployed persons. This is a valuable outcome of the project, even though well short of the outcome expected by either the participants or the Department.

4.155 In assisting with the delivery of the training, the Department has successfully coordinated the selection and organisation of a large number of unemployed clients against a very tight timeframe (more than 2,000 unemployed persons were interviewed and tested for suitability over a two-three week period). The logistical demands on the Department at this stage of the project should not be underestimated.

## 5. Protecting the Commonwealth's Interests

*This chapter examines the action taken by the Department to protect the Commonwealth's interests following the withdrawal of SPCL from the marketplace on 10 September 1997. As well, the chapter examines National Office's involvement in the management and monitoring of the contract with SPCL and the adequacy and timeliness of the advice provided to the then Minister.*

*The ANAO found that, in general, National Office involvement was timely and adequate. Actions to protect the Commonwealth's interests were prompt and appropriate and some remedial action has been taken to minimise the likelihood of repeat occurrences of the administrative and procedural breakdowns highlighted by the SPCL contract. The ANAO has recommended that the Department review the management of LMP projects across the Department to ensure effective and efficient management practices are applied.*

*However, the ANAO has identified serious deficiencies in the adequacy and timeliness of some advice provided to the then Minister. The ANAO has recommended that the Department review the processes relevant to the preparation and clearance of Ministerial briefings.*

### Introduction

5.1 On 10 September 1997 SPCL announced that it was abandoning the cruise line project. The company cited adverse media and political comment as the cause of the company's financial collapse.

5.2 The Department immediately terminated the contract with SPCL and took action in an endeavour to protect any remaining Commonwealth funds held by SPCL. This action involved legal proceedings that were extended to include WA2000.<sup>11</sup>

5.3 The ANAO examined the adequacy of:

---

<sup>11</sup> The Commonwealth discontinued legal proceedings against WA2000 on 14 November 1997.

- National Office's involvement in the management and monitoring of the contract with SPCL, in particular the review undertaken by the Department's Internal Auditor;
- the action taken by the Department to protect the Commonwealth's interest following SPCL's withdrawal from the market;
- the measures the Department has taken to prevent a recurrence of the problems experienced with the cruise line project; and
- the advice provided to the Minister, including the timeliness of Ministerial briefings.

### **National Office involvement and intervention**

5.4 National Office first received advice from DEETYA Queensland concerning the intention to proceed with the cruise ship project, its cost and the advance, in April 1997 when the project was given 'in-principle' approval. Consistent with normal operating practices, National Office was not involved in the management and monitoring of the cruise ship project. However, shortly after the first adverse media reports appeared in mid-June 1997 a National Office review team visited DEETYA Queensland to examine the process leading up to signing the contract and the advance payment. A report was prepared following this review, which identified procedural deficiencies and recommended action to tighten management of the contract, but the report was not formally conveyed to DEETYA Queensland until late July 1997.

5.5 National Office sought the advice of the Department's Legal Group in late June 1997, in relation to action the Department could take to protect the Commonwealth's funds advanced under the agreement with SPCL. The Legal Group was again approached by National Office in September 1997 for advice in relation to the documentation purporting to support a lease for a vessel supplied by the cruise ship company.

5.6 On 28 August 1997 the then Minister for Employment, Education, Training and Youth Affairs requested the Department to undertake an urgent investigation into the letting of the cruise ship contract. The Department briefed the Minister on 1 September 1997 and again on 2 September 1997 providing detailed background to the SPCL contract and comment on departmental actions. The Minister was advised that some matters required further investigation and that the Department's Internal Audit Branch would undertake an urgent investigation. The briefs used the report prepared in June/July as a basis and outlined concerns with the contract management, breaches of guidelines and shortcomings in administration that were subsequently confirmed in the Internal Audit investigation. The Department concluded that:

*'the best option available to the Department is to proceed with the terms of the TEP contract in the expectation that the Company will meet its undertaking to employ all successful trainees ... there is still a strong likelihood of positive outcomes being achieved by some 290 participants'.*

5.7 On 3 September 1997 the then Minister advised the Secretary of the Department that the briefings had not been adequate and sought a final report covering, amongst other things, details of the guidelines or policies that had been breached and actions that would be implemented to prevent a recurrence of the problems in the future. The Minister reported to the Senate that the contract was to be urgently reviewed by the Department's Internal Audit Branch.

5.8 The Internal Audit investigation focussed on financial issues and possible fraudulent activity. The subsequent report was submitted to the Minister on 12 September 1997, two days after the cruise ship company withdrew from the market. The report commented on:

- the inadequate record keeping practices of some staff in DEETYA Queensland;
- the inadequate action taken by DEETYA Queensland to verify or investigate information provided by the cruise ship company regarding the arrangements the company had negotiated with the Queensland State Government;
- a number of contraventions by DEETYA Queensland of the Department's Core Labour Market Program and TEP guidelines, particularly the guidelines relating to advance payments;
- the impact of DEETYA Queensland's desire to expend program funds before the end of the financial year on the decision to advance 80 per cent of the contract price to the cruise ship company;
- the identification of a possible error made by WA2000 in calculating the value of the services to be provided. Some costs appear to have been double-counted, inflating the total contract price from \$2.284m to \$2.794m. Therefore SPCL had, effectively, been advanced the full consideration for the contract;
- the inadequate review of the contract by senior officers and a lack of contract management at the senior officer level; and
- DEETYA Queensland's failure to undertake financial viability checks in respect of SPCL.

5.9 As a consequence of the procedural failures, the report recommended that the Department consider:

- reviewing the CES guidelines to determine whether there is a need to cater more specifically for providers who offer proposals linking training to definite employment outcomes;
- providing an advance payment of less than 80 per cent where the overall contract price is significant, say \$1m or more; and
- reviewing the format of the local TEP proposal form used by the Area Office to ensure that its purpose is clear.

5.10 The Department has responded to the Internal Audit report by initiating, and promulgating, changes to the LMP guidelines to limit the maximum amount that can be advanced under a contract to 50 per cent of the contracted fee to a maximum of \$500,000. These changes have been made notwithstanding that the guidelines always stated that advance payments should only be made in exceptional circumstances. As well, all LMP projects exceeding \$1m must be referred to the relevant Program Manager in National Office before approval. Some additional requirements were made for TEP contracts where the training provider is a sub-contractor. DEETYA Queensland has been advised that the locally produced TEP proposal form should not be used as an attachment to contracts.

5.11 The recommendations made in the Internal Audit report go some way to addressing the procedural and administrative failures in the negotiation and management of the Department's contract with SPCL, with a focus on financial issues. However, the ANAO considers the recommendations are essentially reactive and do not address the underlying causes of the administrative breakdowns. The recommendations propose changes to existing guidelines to tighten the control mechanisms applied to LMP payment and approval processes, but do not address the need for fundamental changes to some departmental practices. However, the ANAO considers the Department's response has been to increase administrative processes without the necessary assurance that the underlying risks have been appropriately treated. The Department has advised that it disagrees with this conclusion, commenting that the adjustments are sensible. The ANAO considers that although the action taken to revise the guidelines may reduce the likelihood that exposure of a similar magnitude does not re-occur, the risks remain unless the causes - lack of understanding of guidelines, inadequate supervision and review and so on - are dealt with. It is important the context in which the breakdowns arose is given close consideration by the Department.

5.12 The ANAO recognises, however, that consistent with the ethics and values of the APS, individual officers have a personal obligation to perform their duties to the best of their ability. Among other things, this means individuals should make themselves fully aware of the responsibilities of their positions - and the directions and guidelines affecting their positions - before exercising a delegation or other discretion.

5.13 The ANAO considers there is a need to:

- adopt a considered risk management approach to the administration and management of contracts; this approach must take into account the nature of the full range of potential contractors;
- enhance the CES guidelines to include the requirement to undertake appropriate and timely financial and probity checks in respect of contractors;
- develop appropriate criteria against which LMP proposals (or similar) are analysed and assessed, including the development of a risk assessment matrix; and
- ensure staff are appropriately qualified and experienced to undertake the duties to which they are assigned, and are fully aware of the responsibilities of their positions.

5.14 These issues are addressed by recommendations number 1 and 3, in Chapter 4.

## **Action to protect Commonwealth interests**

5.15 Following SPCL's withdrawal from the market on 10 September 1997, DEETYA took immediate action to terminate the agreement with SPCL and to protect any remaining Commonwealth funds held by SPCL. The Department approached the Australian Government Solicitor for urgent advice on appropriate action and obtained court orders on 12 September 1997 to freeze the assets of SPCL and its principals and require SPCL to detail how the funds advanced to SPCL under the contract were spent. Further legal action was considered and on 1 October 1997 proceedings were commenced in the Federal Court against WA2000. Proceedings against WA2000 were discontinued on 14 November 1997. The legal matters concerning SPCL have not yet been finalised – a trial date has been set for 25 and 26 May 1998 - and as such it is inappropriate for the ANAO to comment further.

5.16 In mid-September 1997 the Department initiated an informal check of other contracts between DEETYA and WA2000 to assess the nature and cost of the services provided under the contracts and to determine whether the problems experienced with the cruise ship project were recurring. As well,

advice was sought from DEETYA Queensland in relation to the number of LMP contracts commenced in the relevant Queensland Area Office during the period 1 May - 1 September 1997 to determine the value of these contracts and the payment arrangements negotiated. As mentioned in Chapter 4, of the 186 contracts let by the Area Office over this period, 63 per cent involved an advance payment to the contractor, and in 56 per cent of cases the advance was for 80 per cent of the contracted amount. This implies that, contrary to the Department's LMP/TEP guidelines, significant advance payments were commonplace.

5.17 Although the Department has taken some action to minimise the likelihood of repeat occurrences of the administrative and procedural breakdowns highlighted by the SPCL contract, the ANAO considers further action may be warranted. In particular, it would be valuable, as part of prudent risk management procedures, to review the management of LMP programs across the Department to ensure adequate management practices are applied and identify the possible need for remedial action in relation to other current contracts.

#### **Recommendation No. 4**

5.18 The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs review, as part of prudent risk management procedures, the management of current LMP and similar projects across the Department to ensure effective and efficient management practices are applied.

#### ***DEETYA Response***

5.19 Agreed. In accordance with risk management principles, focus will be on major projects (noting that the new employment services market will replace virtually all CMP programs).

#### **Quality of advice to the Minister**

5.20 The ANAO examined the adequacy of the briefings provided by the Department to the Minister in relation to the SPCL contract as a result of concerns raised by the then Minister. In a media release issued by the Minister on 12 September 1997, the Minister expressed particular concern about receiving incorrect advice from the Department regarding the accredited status of the training provided to participants.

5.21 The Department entered into the contract with SPCL without reference to the Minister or the Minister's office. This was appropriate given the relevant delegations were available within DEETYA Queensland. And although this was

an unusual project for the Queensland Office, particularly in terms of the number of unemployed persons to be assisted and the nature of the prospective employment, there was little to indicate the project had national or political implications that warranted the Minister's attention.

5.22 DEETYA's initial advice specifically on the SPCL contract was a brief to the Minister's Office on 12 June 1997, in the wake of an adverse newspaper report the previous day concerning the uncertainty of the cruise ship venture and commenting that two of SPCL's directors were discharged bankrupts. A follow-up briefing later the same day documented discussions between senior DEETYA Queensland officers and SPCL's CEO. The Department briefed the Minister's Office promptly on developments when the adverse media attention broke and continued to brief the Minister on developments from time to time, mainly through the issue of Parliamentary question time briefs.

5.23 However, the ANAO considers that the then Minister's concerns about the adequacy and timing of these briefings appear justified. The ANAO noted inaccuracies, factual errors and incomplete information in a number of the briefings. Some of these may have been the result of inadequate communication between the Queensland and National Offices, others the result of the absence of documentation or internal misinterpretation of advice. Most could have been avoided. As well, the ANAO considers that some of the material provided to the then Minister did not adequately draw the Minister's attention to some of the major problems identified in the administration and management of the contract and the possible consequences of those problems.

5.24 For example, the briefing on 12 June 1997, prepared by DEETYA Queensland, offered background to the project and the recruitment activities and discussed, as an important issue, why SPCL was awarded the contract. The briefing also included the advice that 'finance checks made in respect of the company did not reveal any irregularities'. The juxtaposition of this comment with other comments concerning the date of approval of the project (29 April 1997) and the payment of the advance (6 June 1997) may have given the impression that the finance checks had been performed around the same time. In fact, the checks had been initiated on 11 June 1997, almost a month after the contract with SPCL was formalised, and only in response to the media criticism. The Department did not clarify the timing of the financial checks until 1 September 1997, although the Minister was advised, in background briefing dated 19 August 1997 for a response to a parliamentary question, that DEETYA was unaware, at the time the contract was signed, that SPCL's CEO was a discharged bankrupt.



5.25 The Minister was also advised on a number of occasions (the first on 17 June 1997 in a response to a possible Parliamentary question) that all successful participants in the project would receive 'a certificate of accreditation in the hospitality industry'. This information was not correct as at that stage the **course** was not accredited although the modules, with the exception of one, were nationally accredited. The Department corrected the Minister's understanding of the accreditation status on 11 September 1997, the day after the Minister made public statements about the trainees having completed training and receiving their accredited hospitality certificates. The course was not accredited until 26 September 1997. DEETYA has commented that its advice concerning training reflected the state of its knowledge at the time and it was not until much later that the unaccredited status of the training course became apparent. The ANAO considers that DEETYA Queensland was aware that the course was not accredited (although the modules, with the exception of one, were nationally accredited) at the time the contract was let, and that this issue should have been actively pursued by the Department from the outset.

5.26 In July 1997, the Department prepared substantial briefing papers that would have brought the Minister's attention to National Office's concerns about the management of negotiations with the cruise ship company. Various versions of the brief were prepared on 4 and 10 July 1997 but they were not sent. The first draft of the brief prepared on 4 July contained, as an attachment, the final report into the letting of the SPCL contract submitted to the National Program Manager by the National Office internal review team on 3 July. This report identified a number of contraventions of the Department's program guidelines and the failure of DEETYA Queensland to undertake financial checks in respect of SPCL. As mentioned in paragraph 4.122, the report made a number of recommendations aimed at improving the management of the contract, including closer monitoring of the contract by DEETYA Queensland to ensure the transparency of funds management by SPCL. However, it was decided not to attach the report to the 10 July 1997 version of the brief.

5.27 The Department subsequently decided not to send either version of the briefing to the Minister as they were considered to contain no new information. The ANAO disagrees as the draft briefing could have provided the Minister with a more complete and candid account of the project's status and the concerns expressed by National Office. Notwithstanding the Department's view that the contracted outcomes could still be achieved, a full briefing at this time could have allowed the Minister to make a considered judgement regarding the options that may have still been available to the Department. DEETYA has since acknowledged that the decision not to brief the Minister in July 1997 constituted poor judgement.

5.28 The Department provided a detailed brief on 1 September 1997, which was updated the following day. DEETYA acknowledged the 'number of unusual features of the negotiation and administration of the project and instances where there are clear departures from program guidelines'. However, the Department considered there was still 'a strong likelihood of positive outcomes being achieved' and that the best option was 'to proceed with the terms of the TEP contract'. There are a number of issues of concern to the ANAO with respect to this brief. For example:

- the Department cites WA2000's 'long partnership record in dealing with the Department' as a matter of comfort in the cruise ship project. In December 1996 National Office had expressed concerns about the performance of WA2000 with respect to a significant project outside its home state of Victoria; and
- reference is made to DEETYA negotiating the cost per participant on the SPCL contract down from \$10,500 to \$8,220. As discussed in Chapter 4 of this report the documentation does not support this assertion. Furthermore, advice from WA2000 that the cost per participant may have been around \$10,500 was not received by DEETYA Queensland until 26 June 1997 - more than five weeks after the contract was signed.

## **Recommendation No. 5**

5.29 The ANAO recommends that the Department of Employment, Education, Training and Youth Affairs review processes relevant to the preparation of Ministerial briefings to ensure that there is adequate coordination between National and State offices directed to the provision of briefs that are complete, accurate and timely.

### ***DEETYA Response***

5.30 Agreed. All Senior Executive Services Officers have recently been reminded of the need to provide timely, reliable advice based on accurate data and high quality analysis to the Ministers.

## **Conclusion**

5.31 National Office instituted two internal reviews of the administration and management of the SPCL contract, the first in mid-June 1997 and the second in early September 1997. Considerable discussion with officers of DEETYA Queensland also occurred. The reviews identified numerous shortcomings in the management of the cruise ship project and the report from each review recommended actions to improve the management of the project, protect the

Commonwealth's interests and minimise the possibility of these management problems occurring again.

5.32 The recommendations of the Internal Audit Branch have been actioned by the Department. In particular, the LMP and TEP guidelines relating to advance payments against contracts will be tightened.

5.33 However, the ANAO considers that these recommendations do not address the need for fundamental changes to some departmental practices, including adopting a more disciplined approach to risk management (in particular as it relates to the administration and management of contracts). Therefore, further consideration of the issues is warranted.

5.34 The ANAO considers that the actions of the Department following SPCL's withdrawal from the market were prompt and appropriate. The Department moved quickly to protect the interests of the trainees and secure, as far as is possible, any remaining Commonwealth funds. Legal action in the Federal Court against SPCL is continuing.

5.35 The Department entered into the contract with SPCL without reference to the Minister or the Minister's office. This was appropriate given the relevant delegations were available within the Area Office. The Department also promptly advised the Minister's office of developments when the adverse media attention broke and continued to brief the Minister on developments from time to time.

5.36 However, the ANAO noted inaccuracies, factual errors and incomplete information in a number of the briefings, most of which could have been avoided. The ANAO concludes that the Department failed to provide full, candid and, in a significant instance, timely briefings to the Minister in relation to the SPCL contract. This has had unfortunate consequences for the accountability of the Department and the then Minister and contributed to the adverse media and political impact surrounding the contract. The ANAO acknowledges that DEETYA provided a detailed account of the development and administration of the cruise ship project to the Senate Legislation Committee in the course of a number of hearings that have referenced the project (particularly a special hearing convened to consider the project on 1 October 1997).

**1.**

## **6. Issues Relevant to the Broader APS**

*This chapter briefly describes some of the broader issues the cruise ship project has highlighted and discusses lessons learned and further action to develop relevant better practice guidance.*

*The ANAO concludes that there is value in agencies more explicitly recognising the impact of changes in the APS environment in program administration and management. As previously indicated sound processes and effective management are critical to maintaining long-term performance. In this context, agencies should ensure that internal guidelines for program administrators keep pace with, and incorporate, recent APS guidance material on matters such as managing risk and procurement. The broader APS material offers sound advice that is easily overlooked if departmental guidelines do not keep pace with such developments and reinforce them.*

*The ANAO notes that it is also important that individual officers are aware of the role they play in ensuring that changes in the APS environment are incorporated in an effective manner in the administrative and management activities of their agencies.*

### **Risk management**

6.1 All decisions involve management of risk, although the context and nature of the risks may vary with the level within the agency that the decisions are being made - that is, decisions at the agency, program, team and individual levels carry different risks. Nevertheless, the same basic process should be applied. This process is well described in the publication 'Guidelines for Managing Risk in the Australian Public Service', published by the Management Advisory Board/Management Improvement Advisory Committee in October 1996.

6.2 Managing risk in the context of an established program, such as the Training for Employment Program, does not require extensive documentation and excessive bureaucratic procedures. But, clearly, strategies to treat risks must be matched to the level of risk identified. Thus the more material the exposure, the more robust the strategies required to treat the risks. Documentation of decisions is necessary to meet accountability requirements - to ensure all facets of the program delivery are done correctly, to ensure decisions or processes can be reviewed and to demonstrate accountability to program managers (and ultimately, the Parliament). The extent of documentation required is primarily an issue of context and likely consequence.

6.3 The path to risk management involves, among other things, identifying, analysing and treating risks, as a means of mitigating the exposure and consequence of risks. Risk management is pro-active and pre-emptive, and its efficacy is tested through monitoring and review. In other words, risk management is an ongoing activity and strategies for treating risks will change as circumstances change. As discussed in paragraphs 4.34 and 4.35, the somewhat unusual nature of the cruise ship project suggested that documentation of key risks and the necessary risk management processes was warranted. The lack of documentation, coupled with the problems experienced, invites the conclusion that procedural aspects of risk management were not given sufficient consideration.

6.4 The cruise ship project serves as a reminder that managing risk is an integral part of sound business practice and should be a commonplace activity across the APS. The ANAO considers it important that this is recognised at all levels of an agency - collectively and individually. Individual officers, for example, should be aware that effective management of risks requires that they make themselves fully cognisant of the responsibilities of their positions - and the directions and guidelines affecting their positions - before exercising a delegation or other discretion. This is becoming increasingly important in the current devolved management environment with its increased focus on service and results. The APS values of responsiveness, quality service and high standards of ethics and accountability are all essential goals for the modern public sector. An important priority therefore is to ensure that public servants understand that these goals do not conflict but are complementary and need to be applied professionally.

## **Project management**

6.5 Project management refers to the planning and management of tasks and resources to accomplish a set of objectives, usually within a specified time period and within financial constraints. Project management is a well established practice that promotes improved control and accountability in the management of limited resources to achieve desired outcomes. The concepts behind project management are relatively simple; a project consists of a number of phases (needs analysis and definition; planning; implementation and control; and completion and evaluation); resource inputs should be managed to achieve outcomes; and, upon

6.6 completion, the processes should be reviewed and evaluated as a means to improve future projects.

6.7 The extent to which project management is formally adopted and documented in any given case should be assessed with reference to

appropriate risk management practices, taking into account the context of the proposal under consideration. In this sense, the 'context' would cover matters such as the program significance of the proposal, resource inputs, expected outcomes, and its 'visibility'.

6.8 Under project management practices, it is common to develop a project framework 'up front' to guide performance. This may involve assembling a team of skilled participants, defining roles and responsibilities and establishing reporting arrangements - in effect, establishing a cost effective 'chain of command'.

6.9 As discussed in Chapter 4 of this report, the ANAO considers the cruise ship project has highlighted the importance of implementing robust project management as a means of better securing desired outcomes.

6.10 The ANAO considers the principles of sound project management should be adopted consciously and consistently across agencies and appropriate references included in guidance material for program administrators and managers.

## **Procurement practices**

6.11 It should also be recognised that the application of funds under a program such as LMP is not significantly removed from regular procurement activity. If viewed in this manner, it becomes apparent that the disciplines of the Commonwealth Procurement Guidelines also have application. These guidelines, revised and released by Purchasing Australia in July 1997, set out a framework of general policies and principles of Commonwealth procurement and provide advisory guidance on best practices and techniques. Prominent among the core principles are the concepts of value for money and accountability. The framework also places significant emphasis on risk management in procurement.

6.12 In discussing value for money the guidelines include the following comments:

*'Price alone is not a reliable indicator of value. ... A well-informed decision in any particular case involves:*

- *a careful assessment of the functionality of what is needed;*
- *a thorough evaluation of what is offered and of suppliers' ability to provide it;*
- *an understanding of all relevant costs on a whole of life basis;*

- *an assessment of any risk factors that may impact on cost and value; and*
- *negotiation, where appropriate, to clarify the best offer or to seek improvements so that the best possible outcome is achieved’.*

6.13 The discussion of risk management and quality assurance advises that:

*‘Not managing risks is to take the greatest risk of all. Unexpected consequences can be very expensive to deal with. Expected consequences can be managed efficiently’.*

6.14 Contractual arrangements are described as follows:

*‘Agencies should be mindful of best practice in contract formation and record agreements in writing. Terms and conditions of agreements must be clear and concise...’*

*Standard form contracts incorporating the conditions required by the Commonwealth are available for various transactions. They must, however, be handled with care to ensure they are appropriate for a particular transaction.*

*Procurement personnel should obtain legal advice if they have questions about the construction and interpretation of contractual provisions or if they are uncertain about the course a transaction is taking’.*

6.15 The ANAO considers there is value in agencies more explicitly recognising and directly reflecting the application of procurement principles and practices in the administration and management of program funds.

## **Guidelines must keep pace**

6.16 The Guidelines for Managing Risk in the APS and Commonwealth Procurement Guidelines have clear relevance to an activity such as the cruise ship project. Such guidelines are generally available across the APS and it is reasonable to expect senior managers to be aware of the concepts and principles described therein. It may not be as reasonable, however, to expect each and every officer involved in a project to have the requisite detailed knowledge and experience to apply the guidelines in every case. In such a situation, the expectation is that guidance material available in the Department, such as the LMP/TEP guidelines, will take the concepts and principles into account.



6.17 Proper application of the local guidelines should therefore reflect the considerations the broader APS guidelines espouse. The APS guidelines on managing risk and procurement, among others, have been developed in response to the rapidly changing environment of the public sector, itself fashioned by major reforms over the last decade or so. Although an increasing emphasis on outcomes has been a key factor in enhancing the efficiency and effectiveness of the public sector, sound processes and effective management are critical to sustaining long-term performance. The ANAO supports strongly the proper and effective use of risk management in the public sector as a means of improving public administration and accountability. The importance of ensuring local guidance material keeps pace with the environment within which the department is operating cannot be underestimated.

### **Assessing the capacity to deliver – due diligence**

6.18 The Commonwealth Procurement Guidelines include an extensive ‘value for money checklist’ that lists (but does not discuss) many factors relevant to procurement decisions and contractual arrangements. In the context of the cruise ship project, the first two factors mentioned are telling:

*‘Characteristics and capabilities of suppliers:*

- *legal identity and capacity*
- *financial viability’.*

6.19 The failure of the Department to adequately assess the suppliers (WA2000 or SPCL) against these aspects in a timely manner is a serious deficiency in the administration of the cruise ship project. Although the information that could have been revealed through relatively simple and inexpensive checks may not have outweighed the Department’s interests in achieving the employment outcomes the project promised, there seems little doubt that alternative actions would have been taken to treat the risk thus exposed. In essence, there is no reason why these concerns should not be treated in a complementary manner.

6.20 However, the guidance material available to the officers involved in the cruise ship project made only brief mention of the need for checks of financial viability, and certainly gave no indication as to how such checks should be conducted. And although the Commonwealth Procurement Guidelines include a brief discussion of the process of supplier assessment, including a list of some of the information that could be used in the process, they do not give further guidance on how the information would be used.

6.21 Consequently, the ANAO considered there would be value in developing better practice guidelines on risk assessment of new suppliers and

engaged the services of appropriate outside expertise to provide assistance in their development. The better practice guidelines will offer officers involved in procurement activities a simple risk matrix, based on material available in the public domain.

6.22 It is proposed that the better practice guidelines will provide advice on the source and nature of information that can be used to assess the risk of dealing with a given supplier (particularly a new supplier) and in general terms the likelihood of achieving the activity's desired outcomes. Practical advice on the interpretation of the information will be included.

6.23 Development of the better practice guidelines is continuing, but at present they refer to the assessment of risk based on information covering:

- the history and development of the potential supplier;
- the legal background and company structure;
- critical elements (such as the supplier's standing in the particular field);
- the management and employee structures; and
- financial information such as commitments, contingencies, solvency and projected profitability.

6.24 The ANAO expects to distribute a better practice guide to relevant APS Departments and agencies for comment early in 1998. Another helpful guide entitled 'Better Practice Guide to Effective Control' is expected to be released on 15 December 1997.

## **Appendices**

## Appendix 1 Breakdown of unit costs (costs per participant)

Item	[A] Costs per contract (10/4/97)	Cost breakdowns provided by WA2000 (after contract was signed)		
		[B] Market Price (25/6/97)	[C] [E] DEETYA preferred client rate (18/11/97)	[D] [E] SPCL costs (18/11/97)
Tuition costs (\$15 per student contact hour x 448 hours)	6720			
Pre screen/ Matching		150	60	
Curriculum design & customisation	666	180	60	
Basic national certificate curricula training		1610	1460	
Seagoing AMSA requirements - 10 hours		50	50	
Sea & Safety certificates (advanced - 20 clients @ \$450; basic - 340 clients @ \$250)		700	277 (average)	
Environmental Health and Safety, Fire and Life Saving Devices		23	23	
Safety at sea (on board)		1900	1150	750
Level 2 Certificate OH&S		100	100	
Specific specialist multi skilling technology training		700	700	
Case supervision, management & overheads		4500	2490	650
Tools, uniforms & books	834	265		
Travel and associated costs eg for specialist teachers		450	350	100
Total	\$8,220	\$10,628	\$6,720	\$1,500
			\$8,220	

### Notes:

The cost per participant contained in the contract is \$8,220.

[A] This breakdown of costs was provided by WA2000 in a 'Proposal for Labour Market Program Delivery' form, completed during a meeting with DEETYA on 10 April 1997. This proposal became a significant attachment to the contract. Tuition costs were not itemised before the contract was signed (see column [C] for a later breakdown of costs). It is not clear to the ANAO that the 'ancillary costs' (those costs other than the tuition costs) are costs to be attributed to SPCL's role in the pre-employment training, nor was DEETYA aware of this when the contract was prepared.

[B] WA2000 provided this breakdown of unit costs to DEETYA on 25 June 1997 and to the ANAO on 18 November 1997. WA2000 advised the ANAO that the figures in this column were standard rate

charges; DEETYA were given a discounted 'preferred client' rate 'given the volume of business that [WA2000] had conducted with DEETYA over the past two years' (see column [C]).

- [C] This breakdown of tuition costs was provided to the ANAO by WA2000 on 18 November 1997. This is the discounted rate for DEETYA as a preferred client and represents WA2000's cost component of the contract.
- [D] On 18 November 1997 WA2000 also provided the ANAO with a breakdown of SPCL's cost component for its role in the pre-employment training. Adding WA2000's and SPCL's costs (that is, column [C] + column [D]) gives the contract unit cost of \$8,220.
- [E] WA2000 has not provided this breakdown of costs to DEETYA.