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Mardi 11 février 2003

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public accounts**

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Provincial Auditor:
Consulting services

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Rapport annuel 2002,
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Services de consultation

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Tuesday 11 February 2003

Mardi 11 février 2003

The committee met at 1021 in room 151, following a closed session.

2002 ANNUAL REPORT, PROVINCIAL AUDITOR

Consideration of section 3.06, consulting services.

The Vice-Chair (Mr Bruce Crozier): This morning's session of the standing committee on public accounts will come to order. Today we are considering section 3.06 of the auditor's report, consulting services.

At the outset, I might say it's evident that we have a number of ministries and a significant number of visitors with us today, so there may be a fair amount of movement around the room and we ask your indulgence.

To give you an idea of the process today, the ministries will be given up to half an hour of opening remarks. We will then go in rotation of the caucuses in 20-minute sections, starting with the NDP caucus. I would ask the members of the committee, since we have some five or six ministries listed here, that you may want to identify the ministry to which you have a question. Again, that may cause some movement. We ask those who are coming to the desk to answer questions or comments to please identify yourselves in each case for the committee and for Hansard.

With that, I welcome you and your colleagues this morning. You have up to half an hour for your opening remarks.

Ms Kathryn Bouey: Good morning. My name is Kathryn Bouey. I am the Deputy Minister of Management Board Secretariat and the Secretary of Management Board of Cabinet.

I want to thank the committee for providing my colleagues and me with an opportunity to discuss the section of the Provincial Auditor's 2002 annual report that deals with consulting services. We value and appreciate the work of the Provincial Auditor and of this committee, as we do any contributions that help us build a more accountable, effective and efficient public service. I will be speaking about Management Board Secretariat's corporate role and our response to the Provincial Auditor's report.

Before I begin my presentation, as you may be aware, we had a recent deputy minister shuffle which has had an impact on three of the ministries represented here. For continuity purposes, and to provide you with our best

information, Virginia West, Deputy Minister of the Ministry of the Environment, will be speaking on behalf of her former ministry, the Ministry of Public Safety and Security. She will be addressing the front-line ministry perspective, including how a ministry works to comply with directives.

We have four other ministries represented here this morning who will also be available to respond to the committee's questions. Saad Rafi, now Deputy Minister of Public Safety and Policing Services with the Ministry of Public Safety and Security, will represent his former ministry, finance. Bob Breeze, associate deputy minister, will be speaking on behalf of the Ministry of the Environment. Phil Hassen, Deputy Minister of Health and Long-Term Care, and John Burke, Deputy Minister of Natural Resources, will address the issues connected with those ministries.

Following our opening remarks, the deputies and their staff will be available to respond to any questions you may have.

The government of Ontario values both the audit process and the role the Provincial Auditor plays in that process. We view the Provincial Auditor's annual reports as an essential and objective third party comment on how the government delivers its policies and priorities. This year's report provided us with wide-ranging recommendations for improving our business practices, especially as they relate to the planning, selection and management of consulting services. We took these recommendations very seriously, as did cabinet. We proposed changes to Management Board of Cabinet and received the board's approval for improvements to the procurement policy directives. We are now in the process of finalizing the overall content of the directives. We have strengthened our procurement policy directives and will be introducing new measures to improve the processes surrounding the use of consulting services by ministries. As you know, the Premier has committed to strengthening the policy with respect to lobbyists who may also be providing consulting services. Once we have finalized these additional changes—and I might say that the Premier and the Chair of Management Board are taking a keen interest in making these provisions as rigorous as possible—the strengthened procurement directives will be communicated to ministers and come into effect. I will touch on all the planned changes shortly.

But first some context about our role with respect to corporate controllership, a key responsibility of Management Board Secretariat's central agency function within government. As you likely know, Management Board of Cabinet establishes the corporate management policies and guidelines that set out the way the government manages its people, technology, finances, information and other resources. Management Board Secretariat oversees the implementation of these policies, including corporate directives related to the selection and use of consulting services. Corporate directives incorporate mandatory requirements that ministries must follow. Our corporate policies and guidelines are intended to provide the framework for ensuring accountable management and stewardship of public funds by ministries delivering a vast array of programs and services. Management Board Secretariat is responsible for keeping the corporate policies and guidelines up to date, and ministries are accountable for their own actions and compliance with the corporate framework established by the government. This morning, I am going to discuss our action plan to respond to the Provincial Auditor's comments in the following areas: selecting consultants, managing consultants and ensuring compliance with the corporate policies.

As you are well aware, the Ontario government is a large organization with 24 ministries delivering hundreds of programs to meet the needs of the people of Ontario. The government's policy and service delivery agenda is ambitious, and the Ontario public service, or the OPS, is working hard to implement that agenda. All across the government, initiatives are underway to transform the public service into a client-service-focused organization which is more efficient and more effective and makes the best use of limited taxpayer funds. We are changing our business processes and we are introducing new technology to improve client service and management systems, and we are in the midst of a process of long-term organizational renewal.

Within this context, consultants are an important part of the government's operations and are used by ministries in a number of circumstances. For example, consultants are used for time-specific project work and to supplement ministry staff resources on a time-limited basis to deal with workload pressures. Consultants are also used to provide specialist advice in certain areas, for example, with respect to newer complex technologies and issues, or new business processes. These specialist resources may be in hard-to-recruit areas, or they may be used for time-limited periods to enable a business change and knowledge transfer. Consultants are also used when we need independent advice, and sometimes consultants are used to bridge the gap when it takes time to recruit new staff into a new or changing function.

As the Provincial Auditor has noted, one area where we've been using consultants quite extensively is in our information and information technology organization. Increasing the use of technology in service delivery, in government administration and across sectors—becoming an electronic government—allows us to make sig-

nificant improvements in service delivery while becoming more efficient. Renewing the OPS workforce to ensure we have the staff skills we need in the government is another way we are achieving these goals. Through the combined efforts of our OPS staff and with the input of our expert consultants, we have achieved substantial transformation. Government services are increasingly more convenient for our residents and businesses, and the Ontario government is recognized throughout the world as a leader in innovation and e-government. Indeed, we've won international awards. For example, the Ontario public service recently won the Commonwealth Association for Public Administration and Management gold award for innovation.

Within that context, I'd now like to turn to the Provincial Auditor's report on consulting services. As noted earlier, Management Board of Cabinet has responded to the Provincial Auditor's concerns by improving the procurement directives. I'd like to highlight a few of our planned changes this morning.

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The Provincial Auditor has told us that we need clear and well-understood processes to identify when consultants are required and how they are selected. Ministries will be required to fully document how they assessed available internal ministry resources before turning to consulting services. Ministries must then clearly define the requirements and deliverables of any assignment before commencing the selection process and then follow enhanced requirements for evaluating bids and selecting vendors to ensure they get well-qualified people to do the job cost effectively.

In the area of selecting consultants, the Provincial Auditor placed a sharp focus on government vendor-of-record arrangements. Let me take a moment to explain what these are. To assist ministries in acquiring consulting resources, the government has developed a vendor-of-record program, or VOR program, for consulting services in subject areas where we expect ministries will have frequent need for consultant services. Consultants included on corporate VOR lists have successfully competed in a fair, open and transparent process. They have met rigorous mandatory standards as well as evaluated criteria, including price, in order to become pre-qualified to work for the government. Ministries can then select from a list of pre-qualified vendors when there is a need to engage consulting services. The vendor-of-record arrangements provide administrative efficiencies for ministries by not having to repeat lengthy formal selection processes each time they need to secure consulting services. They also reduce overhead costs to businesses since the businesses are not required to compete in multiple similar RFP processes by several ministries.

I'd now like to turn to another area: managing consultants once we have them on board. We are taking steps to strengthen the requirement for the management and consulting services contracts. We will impose strict new controls on the ability of ministries to expand the scope

of a consulting assignment or to structure a consulting assignment so as to avoid an open, competitive process.

These new rules are intended to require ministries to pay close attention to careful planning and accurate costing of proposed consulting assignments. Enhanced mandatory requirements relating to documentation, management and payment of consultants have been approved. These new rules will also stipulate that consulting assignments and vendor performance issues be properly documented and that any vendor performance issues be resolved. In addition, the new rules will set out the required approvals that must be obtained for any changes to the scope or terms and conditions of agreements. We are also tightening the rules with respect to tax compliance. In particular, the Minister of Finance must verify the tax status of a vendor before that vendor can be awarded the contract.

The Provincial Auditor recommended a number of improvements to our previous VOR practices because he was concerned that the way the VORs were being used did not always achieve value for money. Specifically, he recommended that the VOR guidelines be strengthened to clarify the process by which the consultants are selected and that guidelines be provided to ministries to require that larger projects not be subdivided into smaller assignments to avoid competition. The revisions to the procurement directives will be intended to address these concerns. As a first step, we are strengthening our rules by formally recognizing VOR arrangements in our procurement directives. We are also clarifying and strengthening the specific rules around requirements for vendor-of-record second-stage competitions to further encourage competition and value for money.

Second-stage competitions refer to the selection process of a particular vendor from the vendor-of-record list for a specific assignment. The first stage is, of course, when the vendor list is established and is similar to a roster of suppliers or vendors. At this stage, we will seek commitments that they are providing pricing comparable to the pricing that they provide similar large public sector organizations in Canada. In the future, a formal second-stage competition will be required when making use of VOR arrangements for procurements above \$25,000. We will also explore where we can obtain price discounts from vendors. In addition, we are specifying a ceiling value of \$750,000 for the use of the vendor-of-record arrangements unless otherwise approved by Management Board of Cabinet. Beyond the ceiling, a full, separate competition must take place. In addition, we are establishing new approval and reporting requirements to ensure that projects using VOR arrangements are not subdivided into smaller projects to avoid competition or to miss opportunities to achieve greater value for money.

In summary, we are taking action to further entrench the principles of competition and value for money in our directives. I should note that for procurements that do not use a vendor of record, the existing rules have not changed. That is, full, open tendering is still required for goods over \$25,000 and services over \$100,000.

Beyond our vendor-of-record process, we are introducing changes to the executive approvals required for each level of procurement. For contracts valued at over \$1 million, Management Board of Cabinet will have to approve the planned procurement. This includes the establishment of vendor-of-record arrangements valued at more than \$1 million. This provision, which used to apply only to IT procurement, now will apply to all goods and services procured.

We are also taking steps regarding non-competitive sourcing and consulting contracts. In the future, deputy heads will have to approve all non-competitive procurement valued at \$25,000 or more, and Management Board of Cabinet must approve all non-competitive consulting contracts valued at \$500,000 or more.

We are establishing additional mandatory documentation requirements in the procurement directives to ensure that full justification is provided for any non-competitive process. This will require greater due diligence by ministries to receive approval for a non-competitive process and establish a consistent justification process for all ministries. Unavoidably, sometimes a ministry will need services urgently; for example, to deal with an emergency or a natural disaster. In those cases where the ministry would normally require Management Board of Cabinet approval, it will have to inform the Secretary of Management Board of Cabinet as soon as possible about the situation and then report back to Management Board on the circumstances and the justification.

Another major theme in the auditor's report involves the issue of knowledge transfer. We agree with the auditor about the need to ensure an effective transfer of knowledge from consultants to public service staff. Our previous user guides for corporate vendor-of-record arrangements were designed to foster transfer of consultant knowledge to staff where appropriate, but in light of the auditor's concerns we are taking additional action. The new rules will require that VOR arrangements and individual ministry procurements include contractual obligations to ensure a transfer of knowledge from consultants to public service staff where applicable. The goal of this requirement is to build capacity within the Ontario public service and help retain the ideas and the knowledge that we paid for.

These new rules will complement human resources strategies already in place to address the long-term human resources requirements of the OPS, including programs to improve our recruitment and retention of qualified IT staff in critical government positions and a new internship program to attract skilled graduates in key areas, including IT and electronic service delivery. We want to harness their skills to build a better public service for the future.

The Provincial Auditor said that ministries should comply with the consulting services directive by clearly defining assignments and specifying deliverables, time frames and costs. We are implementing changes to our directives to require ministries to report to Management Board Secretariat each year on the planning, acquiring

and management of consulting services, including any exceptions to open tendering and vendor performance issues. Requiring ministries to report back every year on their use of consultants will enhance internal ministry reporting and monitoring and lead to better management of the use of consulting services across government. The report will detail ministry management and use of consulting services and help us monitor the use of both consulting services and vendor-of-record arrangements across the government.

We are initiating a corporate training program for managers to guide them on how to hire and manage consultants. This program will help ensure that when consultants are used it is for sound business reasons and there is always the proper documentation in place to define the scope of work, time frames, deliverables and related costs. We will also offer enhanced training for senior staff throughout the government on contract management. This course will help prepare appropriate procedures to ensure they are followed and that payments are only made based on stipulated terms of any consulting contract. We are developing tools such as a checklist for the procurement and management of consulting services to assist ministries to effectively implement their new obligations. We are determined to evaluate the effectiveness of these changes and continue our work with ministries to further enhance the efficiency and value for money of our operations.

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In addition, Management Board of Cabinet has directed Management Board Secretariat to work with ministries and report back with a plan to further strengthen contract controllership capacity within ministries for consulting services.

Before closing, I'd like to address a topic not raised by the Provincial Auditor in his report. The Premier has committed to strengthening the rules around lobbyists who may also be providing consulting services to the government. The Premier and the Chair of Management Board are taking a key interest in this matter and want to assure themselves that we are taking a very rigorous approach. We agree that it is essential to have greater disclosure and transparency of these kinds of activities and that is why we intend to clarify the rules. The intent of the policy now being finalized is to ensure there is no conflict of interest at the outset and that none emerges during the course of the consulting assignment. Once the new policy with respect to lobbyist activities is approved, we will be communicating all the new directives to ministries.

This morning I have told you how we are planning to strengthen our policies around selection and management of consultants in the Ontario government, as well as how we at Management Board Secretariat are working with ministries to increase their compliance with corporate policies. In taking these steps, we have responded to the concerns of the Provincial Auditor, and I thank the committee for the opportunity to outline these actions here today.

That concludes my opening remarks, and I thank you for your attention. My colleague, Deputy Minister Virginia West, will now outline some of the controllership and organizational challenges faced by ministries and comment on how the ministries represented here today are working with Management Board Secretariat to implement their action plans to address the auditor's concerns.

Ms Virginia West: Mr Chairman, members of the committee and Mr Peters, let me begin by thanking the auditor for his work and that of his staff. We recognize the important role of the Office of the Provincial Auditor in maintaining public confidence in the Ontario government and in its public service. Thanking the auditor for his efforts, however, would mean very little if we did not also commit to follow through on his recommendations and improve the way we do business. I know I speak on behalf of my colleagues when I say that we are and will remain committed to continually improving our systems and processes.

We've all reviewed carefully the recommendations of the Provincial Auditor to determine how they may best be implemented. We are also committed to ensure that we comply with the planned revisions, referred to by Deputy Bouey, to Management Board procurement directives.

The auditor's work was completed in the spring of 2002, at a time when the new Ministry of Public Safety and Security was being forged out of two former ministries: correctional services and Solicitor General. The information technology division, which was the focus of the auditor's comments for the Ministry of Public Safety and Security, provides services to the entire justice sector. Because our facilities are spread across the entire province, much of our mission is delivered through contracting with the private sector. This, I might add, is a challenge faced by virtually every line ministry in the Ontario government. As deputies of line ministries, we recognize that systems can always be improved, and the auditor's report has pointed out several areas that we are addressing. While I am speaking today on behalf of my colleagues, I will naturally draw on examples from my own experience.

As Deputy Bouey has explained, there are several factors that enter into the decision to use consultants rather than permanent staff. Let me illustrate how that works at the operational level. In our response to the auditor, we made two general points about the use of consultants. The first was that the rapid growth of information technology has made it hard to staff IT positions in the first place, and when these staff exercise their right to retire or resign, it can be very difficult to find qualified replacements. At the same time, we are obligated to provide critical support to front-line service providers. The solution often requires that we make use of consultants.

Our second point is related to the nature of information technology work, which is characterized by time-limited, specific projects. As Deputy Bouey said, in these situations consultants provide specialist advice, for

example, with respect to newer, complex technologies and issues or new business processes. When these requirements arise and we need a relatively large number of highly skilled resources for a relatively short period of time, it makes more sense to hire consultants with specific skills for the required time period.

There is another situation when outside resources are used by the government, and that is when management decides that the most effective way of serving the taxpayer is by adopting an alternate service delivery model, generally known as ASD. When a ministry makes such a decision, it proceeds with a Management Board submission to obtain the requisite approvals.

In the case of the more than 40 consultants at the Ministry of Public Safety and Security in the auditor's report, all of these factors played a role. This was not a single group, but rather three separate ones, and the circumstances surrounding each were quite different. The first group consists of former staff who became consultants and who are currently employed by a third party vendor. They provide what's called tier 1 help desk services to the ministry under an alternative service delivery arrangement that was approved by Management Board.

Nevertheless, the issue raised by the auditor with regard to the tier 1 help desk service staff is valid. These were former employees who became consultants on short notice during the period from July through October 2001. However, their transition from temporary employment contracts to consulting contracts was just the first step in preparing for ASD. These former staff were told that tier 1 help services would be required, and they sought employment with qualified vendors of record. These staff returned to the workplace as consultants through valid contracts with two different vendors of record.

The auditor was also correct to point out some problems with the business process used with the second group, which provides what's called tier 2 infrastructure support. They were originally hired in the expectation that permanent positions would be created for them. However, management later decided to provide the service through the use of an external vendor. This group also sought employment through a qualified vendor of record. This occurred between May and August 2001.

The third group involves people working on time-limited project-based activities, as I mentioned earlier. Of this group, more than half are no longer on contract. The projects that the rest are working on will be wrapping up, some at the end of March, but all by the end of August.

That said, we acknowledge that the auditor is correct in concluding that these processes could have been better handled, with better documentation of the reasons for hiring consultants and better control over their deliverables. We have taken these lessons to heart, and we are implementing several process changes. For example, control over contracts relating to information technology has already been centralized under the chief information officer. We are making it clear that we require a business case, specific deliverables, payment terms, a means of

ensuring knowledge transfer on completion and status of payments. Vendors must list any former employees who will work on the project. Every contract is signed by the CIO personally, and no payments are made until this paperwork is completed.

Similarly, the Ministry of Public Safety and Security is developing a central database for contract information that will encompass the entire ministry. When we responded to the auditor, we noted an introduction of the tools and processes had started in December 2001. To date, we have trained more than 50% of the staff who will need to use these new tools, and we are 75% of the way to a ministry-wide system. You will appreciate that this is a very large undertaking in a very large ministry, but we are hopeful that it will be completed by this spring. Once this work is completed and the database is in place, we will be in a much better position to control consulting contracts and, by the way, to answer more definitively questions such as those posed by the auditor and members of the public accounts committee.

Finally, in common with my colleagues in the other ministries, we are committed to complying with the new procurement policies being developed through Management Board. The ministry's central contract database will, for example, help the ministry with the required annual reporting to Management Board referred to by Deputy Bouey. I'm sure other ministries will be developing their own processes to ensure compliance.

At this time, I would like to thank the staff of the Ministry of Public Safety and Security for the work they've put into both the original audit requirements and, more importantly, for responding in a constructive way to the recommendations. I would also again like to thank the auditor for his constructive suggestions and to assure you, on behalf of all the deputy ministers here today, that we are doing our best to implement them.

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Although I have been speaking today as the representative of my former minister, as Deputy Bouey explained, the current deputy minister for policing services and safety and security, Saad Rafi, is here today, along with other ministry staff, to assist us in responding to any of your questions. All of us would be happy to assist the committee by trying to answer any question you may have with respect to the ministry or otherwise.

I'll turn the microphone back to Deputy Bouey if she had any closing remarks.

Ms Bouey: Mr Chair and members and Mr Peters, I would just say that we would now be quite willing to take any questions you might have.

The Vice-Chair: Thank you very much for those opening remarks. I would just remind each speaker, prior to making their remarks, to identify themselves, please.

We'll begin 20-minute segments of questions and comments with the NDP caucus.

Ms Shelley Martel (Nickel Belt): Thank you, Deputy, and the other deputies and staff who are here today.

Let me begin in this way. The real problem here is that of ministries not adhering to the guideline, either the directive or the guidelines that flow from it with respect to consulting services. I note that the auditor said that in his report on page 181 when he said, "We found numerous instances in which the ministries did not comply with the directive requirements." He essentially repeated that when he spoke before the standing committee on December 5, when he said, "Our main observation is that essentially the directives are not bad; they're just not being adhered to. There is ... very little mechanism in place by Management Board to ensure that they're being adhered to. Ministries seem to have quite a bit of leeway in their application of them."

So the problem I have is this. You've given us a long list of the changes that are going to be made to the directive, changes to guidelines. The problem is, if the ministries didn't adhere to the guidelines before, why are they going to now? Why is it that the ministries are not adhering to guidelines? I don't think that's going to change even if you have new guidelines.

Ms Bouey: Perhaps, Mr Chair, I could respond to that. We really did take to heart the Provincial Auditor's concerns about that and we are addressing that in a number of ways.

First of all, we are making sure that people are trained so they understand what they are required to do and how to go about doing it.

Secondly, we've talked about the need for ministries to prepare annual reports that come in to Management Board. We will be looking at those reports and identifying issues, and they have to deal with every consulting assignment that the ministry enters into during the year.

Thirdly, as I mentioned earlier, Management Board of Cabinet has tasked us with working with the ministries to look at how they are undertaking controllership over the consulting contracts and has asked us to come back to them about where improvements might need to be made.

Ms West: Perhaps I can also respond to you, because we appreciate that concern. I think some of the problems have arisen from lack of knowledge on the part of the staff that should have proper knowledge about the directives and the need to comply with them, as well as some lack of clarity in the guidelines. Deputy Bouey has referenced some of the work that is being done to clarify the guidelines.

What we have committed to do, as I noted, and we have already started within our ministry and I know within other ministries as well, is to start with appropriate training for staff to re-emphasize the need to educate the proper staff, to provide them with the tools—I mentioned particularly a contract management database—to assist them, appropriate supervision and controllership capacity within the ministry. What we're doing within our ministry is both at the central level, to the CAO, enhancing that controllership, and also in the area of the ministry that's been most problematic, the CIO, ensuring that there's a manager specifically responsible for controlling contracts, as well as having requirement clarity about proper

documentation. So we've tried to put in place processes, systems and expectations as well as oversight to make sure we are in future compliance.

Ms Martel: If I might, one of the changes you said was that annual reports must be prepared. That was a requirement before. This is not a new requirement, and what the auditor noted was that annual reports were not filed. So I don't see a change there. You maybe want to reinforce that, but in fact people weren't following that directive before.

The second issue I have, Deputy, is that you said Management Board of Cabinet has essentially assigned Management Board Secretariat to work with the ministries on these issues. The problem was, frankly, as I read through the auditor's report, that Management Board Secretariat was the worst offender in terms of not following the directive or the guidelines. The auditor noted at least seven examples—which was the majority of all of the ministries he looked at—where MBS didn't follow the directives, didn't follow the guidelines. So how can I have any comfort that your working with other ministries is actually going to improve the situation when, frankly, your ministry was the worst offender the auditor noted?

Ms Bouey: If I could deal with the first question first, in terms of the annual reports, the directives indicated before that ministries had to be prepared to file the annual report; they didn't require them. That was a weakness. Obviously, we were concerned when we set that requirement up, I gather, about trade agreements. That was why the requirement was set up that way. We've now recognized and appreciated the Provincial Auditor's advice that that's not sufficient, that we basically do have to monitor what's going on.

I definitely take the point, as did my staff, when the Provincial Auditor called our attention to the Management Board Secretariat's own experience. I can assure you that we have taken steps to put in place stronger contract controllership and stronger financial management in the areas where the problems were being experienced. We take it very, very seriously indeed.

Ms Martel: Deputy, you're going to come forward with new guidelines and a new directive. What happens if ministries don't adhere to that directive and those guidelines again? What do we do to make sure we're not back here two years from now, when Mr Peters goes in and reviews these ministries and finds the same thing happening all over again? What are the penalties? What is the mechanism for monitoring compliance?

Ms Bouey: I think this kind of issue is taken into account when performance is evaluated. The secretary of cabinet and I have been discussing mechanisms we can use to strengthen that in terms of the performance planning process.

Ms Martel: Will there be penalties?

Ms Bouey: I'm not sure what one says in terms of penalties. I think there are issues about whether people get their performance pay. If the situation is really egregious, then, as with any other issue where people really did not act properly according to the rules, we take into

account discipline and those kinds of matters. It's a case-by-case situation, but it is taken very seriously when things are not properly done.

Ms Martel: Will that form part of the directive?

Ms Bouey: It won't be in the directive per se. It will probably be in the performance planning framework.

Ms Martel: The auditor noted that there was a very heavy reliance on the use of consultants—not only heavy use of them but in fact many of them were doing ministry work not just month by month but year after year. Why is it that in the public service we have such an incredible reliance on consultants, many of them actually doing ministry work?

Ms Bouey: In terms of the reliance on consultants, we went through a number of instances—Deputy West as well—regarding the ways we have been using consultants. A lot of it has to do with the massive changes we've been making in terms of how the public service delivers its services. If you just take, for example, one transformational project underway right now, the integrated financial information system, we are putting ministries on that system in waves. It requires a lot of financial expertise, a lot of IT expertise, in a peak-load kind of way, as each of those waves goes on. When the financial system is implemented, we won't need those consultants to the same degree. It's not something where we can easily redeploy existing resources; the IT ones are in short supply.

Right now I think it would be fair to say, if one looks at the fact that we are also changing our estimates to an accrual basis, we have to worry about the capacity of the ministries and Management Board and finance themselves to ensure that those estimates are properly formulated. We need a lot of financial expertise with respect to that as well. Plus, some of the transitions to the financial information system are happening at year-end. So there's a lot of complexity and you get into a lot of peak-load issues. That is just one of many transformational projects in progress right now.

Ms Martel: What about staff cuts to the OPS? Isn't this the real heart of the matter and the heart of the problem? Yes, there are certainly experts being brought in to deal with IT, but the auditor also clearly noted that you had consultants who were essentially doing ministry staff work month after month after month, being paid two and three times what that staff person would be paid as a member of the OPS. I think the biggest part of the problem is the massive cuts made by this government to staff and that now ministries are feeling the impact of that, and the only way they have to resolve that or respond to it is by bringing in consultants at two and three times the cost. Don't you think that's a factor here?

1100

Ms Bouey: I think it's important to sort of remember the context of the downsizing that took place in the public service in the first place. In the early 1990s, as you will recall, there was a very deep recession, exacerbated by limits on federal transfers that made our revenue picture very, very difficult. The decision was made to

focus on core businesses in that very onerous situation. Since June 1995, over 18,000 FTEs have been reduced and 2,630 vacant positions were eliminated. Many of these positions—the work basically went to alternative service delivery such as road maintenance, the revamping of the Ontario Securities Commission, property assessment, the Ontario Realty Corp, and in many of those instances, staff did have the opportunity to go with their jobs. Hospital restructuring and local services realignment also played an important part.

In terms of the actual use of consultants, I think, as we've discussed, a lot of the use of consultants, although by no means all, has been in the area of IT, and it certainly has been the case that we have ended up using consultants for some ongoing work from time to time.

If you look back a couple of years ago, though, with respect to the contracts that this report deals with, we were coming out of the Y2K period where there had been a peak load in terms of demand for IT. It was in the middle of the dot-com boom. It was hard to systematically attract and retain IT people, and meanwhile we had a lot of this transformational work underway.

I think the key thing on this is what we plan to do for the future, which is to basically have people go through quite a rigorous process to determine whether the work should be done internally and whether they have those resources available.

Ms Martel: If I can back up, the audit ended March 2002, and the auditor pointed out that the costs of consultants over a five-year period between 1998 and 2002 had increased by \$391 million. That was an extremely significant increase in terms of the amount of money that we are paying to consultants, money that I think could probably be better spent paying ministry staff with full-time jobs in the public service.

While you talk about alternative service delivery models, you cannot ignore the fact that the auditor has noted that many of these folks are doing essentially ministry work. They're being paid two and three times to do it, but they're doing ministry work. So what analysis is the government doing now to determine how many of those positions should be reinstated so we stop paying consultants two and three times the value of comparable ministry staff and actually hire those ministry staff? What analysis is going on across government to determine how to deal with that particular situation?

Ms Bouey: We will be introducing quite shortly, as I mentioned, revisions to the procurement directives. They will require ministries to fully document the process for determining the availability of internal ministry resources prior to acquiring consulting services. They will clearly define the requirements for the assignment. They will follow an established procedure for the bids in selecting vendors and so on. But an important thing here is that they will also set out a contractual obligation to ensure a transfer of knowledge from consultants to OPS staff. So from the very beginning, when people are contemplating undertaking procurement, they have to look at what the purpose of the consulting assignment is, how the consult-

ants are going to be used and how the work will be carried on after the assignment is completed, if it's an ongoing service. We will be looking at that at Management Board in terms of business planning processes, in terms of how we deal with the approval of various stages of the more major projects.

Ms Martel: But I'm looking at a step even before that, which is, what is the government doing now, especially in light of the auditor's report, which clearly outlines problems, problems of not having qualified staff in the OPS? What is the government doing right now to determine what your shortfall is in terms of expertise, and should you be hiring new full-time OPS staff instead of continuing with this reliance on consulting services?

Ms Bouey: We are going through and looking very closely, as these consulting contracts come up, to see which ones should be continued or where it really is appropriate work to be done internally. For example, with the central agency I&IT cluster, services, Management Board, finance and the Premier's office have already made some adjustments to bring some of that work back internally. We are very conscious of looking at this in terms of whether the situation is cost-effective, whether it deals with knowledge management and all the rest of it.

One other thing I should mention, though, is that in terms of making the cost comparison, salaries to consulting services can be a bit of an apples-and-oranges comparison because there is also the issue of the benefits, and the benefits package adds another 20%, at minimum, when you layer that on. So there is a bit of an apples-and-oranges comparison there, but I think we also are very concerned about making sure we build the knowledge management and knowledge transfer into the government.

Ms Martel: I appreciate your comment about apples and oranges, but on page 182, there is a graph that was provided by the Ministry of Health and Long-Term Care, I assume with their approval, that did a comparison of the per diem rates of consultants and equivalent staff. This was for the Ministry of Health and Long-Term Care. The overall average per diem rates for the consultants and staff was \$847 compared to \$273 for comparable ministry staff. That's not a legitimate comparison?

Ms Bouey: I have no reason to take issue with the figures here, obviously. I'm sure they're correct. I think this is one of the reasons, though, that we are going through very careful processes now to ensure that we are using consultants appropriately, and that's why we will have to go through this up-front stage. It also speaks to issues that, for example, the Provincial Auditor identified around the vendor of record about second-stage competitions that we will also be doing to try to ensure we get the best prices for the quality.

Ms West: I just wanted to add to the previous question you had; that was the issue of what we are doing right now to try to replace, if you will, consultants with staff of the OPS. As my colleague and I noted, the most problematic area for us is in the IT area. As the auditor

has pointed out, we do have a number of instances in our ministry where there are consultants doing work that could be done by OPS staff. It's more of an ongoing work requirement. So we are working with the Management Board and the corporate CIO on an internship program, because one of the difficulties is attracting them into the civil service. There are variations in compensation and, I think, some impression that the work won't be as challenging here as it would be working with a consultant and having other options in developing their own careers.

So we are working on an internship program, we are working on targeted recruitment for IT resources so that hopefully what we will be able to do, for those areas where we do currently have vacancies and yet we have needs for work to be done in order to support programs, is attract people into those positions and keep them. It's a small but very pervasive issue in the OPS, and I think we're taking immediate action to try to deal with those realities.

Ms Martel: On the same issue, the auditor also pointed out that you're in this position now where you are actually hiring consultants to oversee other consultants. I mentioned the Ministry of Health and Long-Term Care in particular because there is a void of senior management that could look after these things. What are you doing to get rid of consultants overseeing consultants in the ministries?

Mr Phil Hassen: My name is Phil Hassen, Deputy Minister of Health and Long-Term Care. Certainly, the issue of consultants is an issue we are all concerned with. I won't go through all of the issues and statements made by my colleagues. There are times when certain projects require expertise. At that level, it requires coordination, and it's intense, it's short-term and requires the expertise that we do not have nor would we necessarily want to keep in the Ministry of Health. So we tend to hire these on a selective basis. There aren't very many of them and they certainly aren't things we're going to be pervasive on. In that case, we certainly aren't going to continue these positions for long periods of time, but they are selectively done.

1110

Ms Martel: The auditor said on page 184 that the Ministry of Health and Long-Term Care had "15 senior consultants, who charged over \$1,200 per day on average, compared to salaries of approximately \$340 per day, including benefits, that would have been paid for senior ministry employees at the equivalent level." Are those 15 gone now? Have they been replaced by 15 others? Can you tell us how many senior consultants you still have overseeing other consultants?

Mr Hassen: I'm going to have to check whether they're here or not. I don't know exactly whether they're here still. We used them because they were certainly required. We looked at all of the factors: the specialized expertise that they provided to the project; the short term and the complexity and the duration of it; the skill sets that are not normally found inside the Ministry of Health

or in our IT area. Again, these are typically IT projects that require the kinds of expertise that are just not available normally.

When we eventually hire public servants back, and we do that in many cases, they are not doing the same work. They are doing the maintenance of that project. Now that the system's up and running, they must maintain it. They're not building the system. Building a system in IT—and I'm not an IT expert, but I'm advised and continue to understand that this is a whole different discussion of that expertise versus maintaining the system. I think we all know that it is different work.

The Vice-Chair: Excuse me. That concluded the first round. We go to the government caucus.

Mr AL McDonald (Nipissing): I'd like to thank everyone for attending and answering questions for the public accounts committee, as the Chair stated, for our consideration of section 3.06.

I'd like to ask Deputy Minister Bouey: can you tell us what changes you've made to the procurement directives to address the concerns of the Provincial Auditor?

Ms Bouey: Just first of all in general terms, we are ensuring that, upfront, people are looking at why they might need to use consultants, defining the assignment properly, estimating it properly, and documenting all of that.

Secondly, we have tightened the rules for non-competitive processes so that hopefully more will be funnelled into competitive processes. People will have to document a great deal of information if they want to use a non-competitive approach.

We are introducing a second-stage requirement into all vendor-of-record arrangements. It requires, depending on the size of the procurement process, that there be some form of competition and that beyond a certain ceiling, \$750,000, the vendor-of-record process cannot be used. Very importantly, we are taking action to try and ensure better compliance. That is not in the directive itself, but we are going to be training people. There really are issues of people not understanding the requirements right now.

We are going to require ministries to provide us with those annual reports; that will be in the directive. We will be working with ministries, as I mentioned earlier, to ensure that they have sound contract controllership in place, and discussing with Management Board of Cabinet any changes that need to be made to ensure that.

Mr McDonald: Are these new directives airtight, or could you guarantee to the committee that revisions won't have to be made later on?

Ms Bouey: As I think Winston Churchill once said, "To improve is to change; to be perfect is to change often." I don't think anything's ever going to be absolutely perfect that way, but I think what we're committed to doing is to keep this under review and to make revisions as we require to continue to improve the situation.

Mr McDonald: By changing these directives, are you conceding that the previous measures were insufficient?

Ms Bouey: Frankly, we did think we had a pretty good set of rules to begin with. There were issues of non-compliance, but the Provincial Auditor has also identified some very important improvements that could be made. We take his advice seriously and as a result want to make the changes that will make the improvements to address the concerns he has identified.

Mr McDonald: Why do we use consultants in the first place? Why don't we just hire staff to do the job?

Ms Bouey: In quite a few instances we are now engaging in some kinds of work, especially as we get into more and more e-government-type activity, where we didn't have internal expertise to nearly the degree we needed to basically design these new approaches. So we use the consultants when we have areas where we need the high-end expertise and we're in a new business process and when our staff don't have those skills or they don't have it in sufficient quantity for the sort of peak-load situation of developing, as I mentioned, for example, with respect to the integrated financial information system.

Sometimes, as my colleague has mentioned, we also use them to supplement the work done by staff just when we have vacancies that for a while we can't fill, and we do have from time to time labour market situations that mean that all those resources aren't available. I think the Provincial Auditor has rightly pointed out that we may not have done this in an ideal fashion, and we're looking to improve how we address that in the future.

Mr McDonald: What steps have the Management Board Secretariat and other ministries taken to tighten up their compliance with these corporate directives?

Ms Bouey: In Management Board Secretariat we have some, I'd say, large business areas in that we have the iSERV area that provides the infrastructure on networks and processing to government ministries and that kind of thing; we also have the Shared Services Bureau—two big entities where we do use consulting services. In both those areas we have been moving over time to strengthen the controllership in place, particularly in iSERV. We are also doing a transition at Management Board as a ministry controllership unit where we will be keeping track in the same way as my colleague has mentioned about the consulting contracts we're entering into and how they're being administered in the chief administrative officer's area.

Ms West: Perhaps, Mr Chair, I can comment as well from a ministry perspective. I did mention a few things that the Ministry of Public Safety and Security is doing as well to ensure better compliance with the directives. I mentioned particularly the contract management database and other tools that will help us to track contract information, including renewals and extensions. That information will also assess the compliance with procurement directives, the delegations of authority, the payments of invoices against contract ceiling prices. That contract management base is about 75% complete in the ministry. I expect it will be fully deployed within that very large ministry by the spring of this year. But in addition to the

tool, as I mentioned before, certainly one of the critical needs is to make sure that our managers are properly trained and aware of what the directives are. So we do have a training plan being carried out in the ministry for managers. We've improved the oversight processes, again, as I mentioned, both within the CAO's office improving controllership, which is part of Management Board's direction to us a couple of years ago as well in terms of improved controllership, but also, as I mentioned, within our information technology division ensuring we have improved controllership there.

Within the justice technology services division, which was the focus of the Provincial Auditor for the Ministry of Public Safety and Security, a number of steps have been taken. As I mentioned, we've centralized contract controllership within the division reporting to the CIO. The assistant deputy minister hired a manager to oversee the consulting contracts in compliance with the directives. The CIO requires a case-by-case analysis of the business needs supporting the need for the consulting resources, the specific deliverables, payment terms and the means of ensuring knowledge transfer on completion; monitors the use of the consultants; and tracks the procurement, approval and payment processes to ensure the issues are dealt with, as well as trends identified and properly addressed.

1120

We noted that vendors must list any former employees who work on the project. Managers must also complete a post-engagement review to assess the performance of the consultant against the contract deliverables.

Obviously, Management Board Secretariat has been working with the ministries as they've started to plan and develop the directives and changes to the directives. We've already started a plan to communicate those changes to the directives to the managers and prepare to train appropriate staff on them.

I think we have gone a long way to shore up both our capacity and attention to the directives. Obviously there is always need for improvement, and we're committed to remain vigilant in that regard.

Ms Bouey: If I could add two other things, we also have had the Shared Services Bureau develop a checklist that gives ministries, including ourselves, a proper list of processes they should have gone through and files they should have documented and so on. We are doing some spot-checks with feedback to the program areas about the documentation.

Mr McDonald: I'm going to change gears a little bit here. Can you tell me what opportunities exist for small business to do business with the government of Ontario?

Ms Bouey: Our competitive procurements, the larger ones, are generally advertised on the MERX system. Further, one of the reasons we have gone for the vendor-of-record arrangements is actually to make the process less onerous for small business in that that way they can essentially apply for a series or a number of different consulting assignments over a group of ministries to be able to be the supplier. That's part of the thinking behind

that. That way they can basically be qualified once and the second-stage process is less onerous.

Mr McDonald: Are these procedures that were put in place going to make it extremely difficult for a small business to compete?

Ms Bouey: We have been trying very hard to get the appropriate balance here so that is not the case. That's one of the reasons why, as I say, we have gone for things like the vendor-of-record arrangements, to make it less onerous, so they don't have to do it a whole bunch of times. It's a very important thing for us.

Mr McDonald: If I could just ask Deputy Minister West, could you tell the committee why you think you're getting good value for the taxpayer even though the consultant rates are higher than what we would pay staff?

Ms West: As I've mentioned earlier, when we use consultants, we do use and should be using them for particular purposes. One of the main reasons for using them—I'll use the IT example again—is when we need a specific expertise or we have a short-term need or an immediate need to deal with a particular project development or innovative response. We're trying to use the consultants selectively for that purpose, not needing to build that particular capacity into the ministry itself but using them for those short-term, specific expert requirements.

I have to say though, again, that we recognize that we haven't been as vigilant in the past as we should be, and we intend to do so. I think documentation as well will assist us. Required documentation, again, as Deputy Bouey noted, will assist us as well in the future to ensure that we are getting good value for money, that we are choosing to use consultants when we really do need to use consultants and that to the greatest extent possible we try to build that capacity, when it's required for ongoing purposes, into the ministry.

Mr McDonald: I have one more question, and I understand Mrs Munro and Mr Dunlop have some questions too. I wonder if we can bring up Deputy Minister Hassen again. I just wanted to further a question that Ms Martel had brought forward.

Mr Hassen, I understand the quality assurance best practice project required consultants to complete the project properly and on time. Could you elaborate on why the Y2K project was so successful in your ministry?

Mr Hassen: I think there are a number of issues. This is an example where one begins to look at and analyse the different ways in which you can solve the problem, Y2K being a very unique problem to the world, frankly, as you know, and certainly to us. I think it required a fairly highly intense, short-term, highly skilled group of people to undertake to make major and vast changes in the system to ensure that we could continue our operations in a whole number of areas. We used that project to ensure that, as we looked at this thing, we looked at the alternatives available to us. In securing the specialized services, we were able to deliver on time and in the budget that was required of us because we were very targeted in how and when we used consultants, ensuring

that what knowledge was required to be transferred was transferred in the stated strategy of the Y2K project. It was not possible to do it within term because of the enormous technical knowledge, which was just not available. In fact, as many of you may know, the demand for that kind of knowledge was so significant. But we were able to achieve it because we were able to get contractors who were consultants who met all of the requirements, both internally through the Management Board and externally.

I think it was a successful project. I think most people would say that and would say that we achieved far greater results than trying to do it through, say, a single RFP contract, because the nature of the problem was not understood by very many as we went through it and would have required complex changes to the RFP and probably would have cost more. It's like when you do a building project: the more change orders you have, the more cost there is. We tried to minimize that, and so we were able to manage that. So from our point of view it was that specialized knowledge of the targeted and specific requirements that made it, in principle, successful to us.

Mr McDonald: I'll turn it over to Mrs Munro.

The Vice-Chair: Mrs Munro, there's about five minutes left in this segment.

Mrs Julia Munro (York North): Thank you very much for coming here today and being available to answer some of our questions. I guess for most of us, the notion of procurement means that the government simply purchases something. As our conversation has developed this morning, it seems to me quite clear that what we're talking about as the object of this procurement is in fact expertise. That seems to have taken the front and centre role in the area of procurement. It seems to me if that is the case, then obviously there are some changes required in terms of how best to manage. We're not talking in the same way about the acquisition of tangible objects. We're talking about levels of expertise.

I know you have made reference, and certainly we on the public accounts committee are aware, that procurement has always been a very thorny and difficult issue to deal with—by governments, by the way, of all political stripes. But I wanted to ask you a couple of questions with regard to that changing nature of procurement and where you see the consulting expertise shifting over a relatively short period of time, I believe.

Ms Bouey: Let me just give you some examples of where we have been using consultants and the kinds of procurements. I think we've talked a lot about some of the I&IT solutions that we've been using. I think that will continue to be the case as we try to, first of all, make these services friendlier to our citizens and use multiple channels and integrate the information from those channels so that people get the service with respect to them, not what services we might want to deliver to them.

We have used, for example, Ontario Business Connects networks, which have self-help workstations built on a technology that was leading edge in 1994. We have

about 100 of these self-help workstations still operating, but to maintain them, we use a consultant who knows the technology and who is accountable for the results. That way, staff focus their resources on the next steps for the Ontario Business Connects, the Internet-based technologies. That's an area where we also are using consultants, rather than having to spend time and money on training to use a technology that, in a while, we won't be using any more.

1130

Interestingly enough, there's another example where we have to get consultants that relates to some of our very old systems. We have legacy systems that are written in COBOL, and there is now a worldwide shortage of COBOL programmers. It was a programming language that certainly I remember was being taught in university when I was there in the late 1960s and 1970s. For example, our payroll system is written in COBOL. I believe our driver's licensing system is written in COBOL or some variant thereof. In order to deal with the updates and so on that we need to do to those, this is a specialized skill to access these resources. Meanwhile, we have to think about where we take these systems for the future, because at some point there aren't going to be a whole lot of programmers around. Secondly, as we've seen recently, as we've tried to implement the changes from the recent round of collective agreements, it's very time-consuming and difficult to find ways to modify those systems.

We are moving very much in the direction of e-government. That requires a lot of knowledge about how to use the Internet and leading-edge technologies and how to weave those things together in a cost-effective way that's friendly to the consumer.

The Vice-Chair: One very, very quick question.

Mrs Munro: That was a quick five minutes.

The Vice-Chair: It was.

Mrs Munro: Since I only have a short opportunity, I really wanted to ask you, then, how you are working with the kind of expertise that you are able to gain through this process with regard to, first of all, international achievements that you mentioned you have made; and, secondly, the opportunities it provides for the future of the OPS in terms of attraction and retention.

Ms Bouey: Just in terms of some of the international awards, I had mentioned the Commonwealth Association for Public Administration and Management gold award for innovation that had to do with the connected way we work together using technology. We are much further ahead than other jurisdictions on that. This association gives awards biennially, and this one is in addition to a 1998 gold award for Ontario Delivers that related to earlier e-government efforts with respect to Ontario Business Connects as well and Service Ontario and our government information centres. A silver award was awarded to us in 2000 as one member of the Citizen-Centred Service Network for Citizens First research. Last year, we came third out of 60 for the Bertelsmann Foundation balanced e-government medal. This is a foun-

dation from Germany, and we were ahead of the government of Canada, I might add.

The Vice-Chair: Thank you. I think I'm going to have to move on; we're a couple of minutes over. We'll move on to the Liberal caucus.

Mr Dwight Duncan (Windsor-St Clair): To Ms Bouey and Ms West, thank you for attending this morning. I listened very carefully and made notes on what you said in your opening remarks. You said your intention is to have a clear, transparent process that gives public servants greater certainty as to how these procurement issues happen. The auditor told us this morning that the issue of enforcement is central to this and, frankly, nothing you've said has assured me that there will be any improved enforcement.

I'd like to relate it back to two specific situations which we have raised in the Legislature. One is Enterprise Canada and the other is MFP. How is it that, in the case of Enterprise Canada, contracts of the size that we have well documented can be awarded in an untendered fashion? Is there interference from the political offices? How is it that you, as deputy ministers, can allow a situation where 11 ministries are paying a specific consultant to advise them who is engaged by 113 non-public interests, that is, private sector and broader public sector interests, all in untendered contracts? How does that happen?

Ms Bouey: Just let me find my notes.

Mr Duncan: One other question, if I can, while you're looking for your notes: have you consulted the Integrity Commissioner with respect to the new directives you're putting out? Yes or no, has the Integrity Commissioner been consulted?

Ms Bouey: No, the Integrity Commissioner has not been consulted.

Mr Duncan: How, then, can you be prepared to say today, as you said in your opening statement, that in fact there is a directive ready? And I can't understand why it's not publicly available yet. This issue has been a matter of record for some time. You were in possession of the auditor's recommendations for some time. How is it that you can come here today and say to us that a directive is ready if you have not consulted the official who is in charge of the lobbyist registration? I don't understand how that is.

Ms Bouey: If I could clarify, in terms of the conflict-of-interest elements, that is the reason the directive is not ready today, because we are still working on those.

Mr Duncan: You said to us today that it's nearly ready.

Ms Bouey: I said it's nearly ready. I didn't say it was ready.

Mr Duncan: How could it be nearly ready if you've failed to consult the Integrity Commissioner? He has jurisdiction, he has carriage of the Lobbyists Registration Act. How could it possibly be near ready?

Ms Bouey: I'll take that point under advisement. The directives—

Mr Duncan: I wish you would, and if I could, I had a few other questions with respect to this.

Your various ministries have been very good at forensic audits of school boards, setting up welfare snitch lines, seizing control of public hospitals. How is it that at this point you cannot table before us today a new directive that will clearly spell out conflict of interest as between consultants that your ministries are paying in an untendered fashion and those same consultants representing private interests? One of the examples I raised in the Legislature, which I'm sure you're aware of, is the question of the Ministry of Energy, which engaged Enterprise Canada to consult on a communications strategy around deregulation at the same time that Direct Energy and National Grid were paying the same consultant to advise them on the same issue. How is it that we can get forensic audits done, school boards, we can seize hospital boards, we can respond to commissions with tens of millions of dollars of money, yet we cannot, in the span of close to three and a half or four months, come up with a very clear conflict-of-interest guideline that could be submitted to this committee and hopefully to the Legislature before an election to debate it? How does that happen?

Ms Bouey: I think we've been working very actively on the conflict-of-interest provisions. I think when the issues raised around that particular firm came up and we looked at our conflict-of-interest provisions, there was a weakness identified in terms of the way they dealt with lobbyists. As I indicated in my opening remarks, the Premier and the Chair of Management Board are very actively engaged with—

Mr Duncan: The problem we have is that we have nothing in front of us. You're sitting there telling me something and, frankly, I can't accept it on face value.

Let me ask you a couple of more specific questions to get at the root of the matter. Will you release to me and to this committee all memoranda, all letters, all documentation that came to the public service from exempt political staff to your various counterparts in the ministries that Enterprise Canada dealt with with respect to the tendering of public contracts—or the granting, I should say; they weren't tendered—by Enterprise Canada? Will you release that information?

Ms Bouey: If I could, just to clarify, Enterprise Canada Group has a contract with the Advertising Review Board to be part of the pool of public relations companies. Companies in this pool are assigned projects across the government by the Advertising Review Board. They were contracted into that pool after an extensive—

Mr Duncan: Excuse me. I asked if you would release information—letters, memoranda—and I will put this in a freedom-of-information request. But I'm asking you today in the interests of expediting debate on this extremely important matter; that is, the conflict of interest, or alleged conflict of interest, as between untendered consultants and the public service of Ontario. Our interest here is in defending the integrity of the public service of Ontario. Will you release the various information that we request? Yes or no?

Ms Bouey: If I might, I don't have knowledge of that information, so I can't—

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Mr Duncan: If that information exists—and I'm surprised you wouldn't. If you're reviewing conflict of interest and untendered contracts and you're ready to do a policy, you're suggesting to me you don't have information of that nature available?

Ms Bouey: I'm afraid at this point I have no knowledge of the information.

Mr Duncan: So you won't answer. You have no knowledge.

Ms Bouey: I'm prepared to go back and look into the matter and—

Mr Duncan: Will you release the information that you find?

Ms Bouey: I cannot answer that question without having knowledge of the information.

Mr Duncan: Cannot answer the question. OK.

The other issue that both of you raised—and I think it's fortuitous that we have the new deputy of public safety here today—is the question of MFP. You have repeatedly referenced IT. The auditor did in his report. The auditor, two years ago, did his report on the question of long-term leaseholds. I explored these issues with him in camera before you came here today. Was MFP ever on the vendor-of-record list?

Ms Bouey: Yes.

Mr Duncan: Was it recently removed?

Ms Bouey: If I could just explain—

Mr Duncan: Was it recently removed, yes or no?

Ms Bouey: Yes, it was recently removed.

Mr Duncan: When was it removed?

Ms Bouey: I don't have the exact date—

Mr Duncan: I believe it was in January of this year. Is that correct?

Ms Bouey: I would have to verify that.

Mr Duncan: Why was MFP removed—

Mr McDonald: Mr Chair, on a point of order—

Mr Duncan: Stop the clock, please, Mr Chair. This is an attempt to stall the legitimate questioning that we have.

Mr McDonald: Chair, it might be legitimate questioning but he's not allowing her to answer the question. He keeps interrupting halfway through her answer. I think with all due respect to the individuals who have come forward to answer the questions—I'd like to hear the answers to the questions that he's putting forward as well. I'm just asking that some respect be paid to the individuals trying to answer the questions.

Mr Duncan: Mr Chair, I think respect should be paid to the taxpayers and this Legislature. We are given 20 minutes to ask a series of questions. I'm trying to get short, concise answers.

The Vice-Chair: We'll continue.

Mr Duncan: Was MFP removed from the vendor-of-record list in January of this year?

Ms Bouey: No, MFP was removed in November.

Mr Duncan: Was that as a result of the preliminary findings of the Toronto inquiry?

Ms Bouey: No, it bore no relationship to that.

Mr Duncan: Have you reviewed the statement of claim by the city of Windsor with respect to their dealings with MFP?

Ms Bouey: We have been monitoring—

Interruption.

The Vice-Chair: Excuse me. If I could just say once again, as I did yesterday, please mute your telephones.

Mr Duncan: Talk about rude.

The Vice-Chair: In fact, I would just ask that everyone, when they enter the room, turn them off. Thank you. Continue.

Ms Bouey: If I could note that we have been monitoring the various inquiries, because we are always looking to improve our procurement processes and so on.

Mr Duncan: But you did remove them finally in November of last year, is that correct, from your vendor of record?

Ms Bouey: That's correct.

Mr Duncan: Have you yet released any contracts the province has with respect to MFP?

Mr McDonald: Mr Chair, on another point of order: In your opening remarks—with all due respect, the committee is dealing with section 3.06, and I would just ask if we could stay on that section. That's why we're here today, that's why all these people are here today, to deal with the section.

Mr Richard Patten (Ottawa Centre): It's within the section.

Mr McDonald: When I checked with—

Mr Duncan: MFP was a consultant, Mr Chair.

Mr McDonald: Chair, I'm just asking, when I checked with the Provincial Auditor earlier regarding 3.06, there were some things that the honourable member opposite brought up that weren't contained in 3.06. So I guess I'm asking you, if the direction of the committee was to deal with section 3.06, can we just stay focused on that section?

The Vice-Chair: There's really no direction of the committee. We're dealing with the Provincial Auditor's report, yes, and we're dealing with consulting services. That's a relatively broad subject. Quite frankly, if the deputant doesn't want to answer or can't answer or doesn't have the information or it's outside the scope, the deputant can tell the questioner that.

Mr McDonald: With all due respect, Chair, you said when we started the meeting that we're here to consider section 3.06.

Mr Patten: It's within that—consulting services.

Mr McDonald: So it's my understanding that we're dealing with 3.06. The member opposite is going outside that section.

Mr Patten: He is not.

The Vice-Chair: I really don't think it's a point of order. We'll continue with the questioning. I'm sure the deputant and the questioner can determine the parameters, and the rest of us will just listen.

Mr Duncan: Just as a matter of record, for the member opposite, MFP is the largest IT consultant used by both of these ministries before us. The government has paid them more than \$1.2 billion in lease payments since 1996. In the case of public security, it's for police radios. Are there escalating clauses on the interest charges in those agreements?

Ms Bouey: If I could have a moment to respond to those items one by one, in terms of releasing the contracts, I believe contracts were released under FOI procedures.

Mr Duncan: We were declined those contracts under FOI. If they have been, I would ask you to please provide them to us.

Ms Bouey: I'll look into that.

Mr Duncan: Because the acting Premier at the time—I believe it was Mrs Witmer—said that in the House, and in fact we were declined those contracts.

Ms Bouey: I can indicate that perhaps it wasn't to you directly, sir, but we did release MFP-related contracts, and I signed off on doing the MBS ones.

Mr Duncan: So you would release all of those contracts to us to peruse?

Ms Bouey: They're hundreds of pages.

Mr Duncan: I understand that.

Ms Bouey: And I believe—

The Vice-Chair: There's about three minutes left.

Mr Duncan: Will you release those contracts?

Ms Bouey: We will release those contracts, subject to some issues around commercial sensitivity.

Mr Duncan: What kind of sensitivity is that? My understanding is there were third party blocks on the FOIs that we put up and that those likely came from one of the signatories to the contract.

Ms Bouey: Just to remind people, there are some sections that did deal with the review of our contracts with MFP. Section 15 does provide, under the Freedom of Information and Protection of Privacy Act, an exemption for information received in confidence from another government. So we did sever one—

Mr Duncan: You severed the relationship with MFP? Did I understand that correctly?

Ms Bouey: We have established a new corporate vendor of record. MFP is no longer on that list. Ministries are—

Mr Duncan: What about the outstanding contracts with MFP?

Ms Bouey: Mr Chair, if I could finish my earlier answer—

The Vice-Chair: Mr Duncan, please.

Mr Duncan: With all due respect, Mr Chair, I'm trying to ask—we were given 20 minutes. I'd just like to ask, have you—

The Vice-Chair: Just to intervene here for a second, the deputant should have the opportunity to finish. But I would say too that perhaps, if this would be of some assistance, the deputant should also keep the answers as succinct as possible.

Ms Bouey: I will try to do so, sir.

The Vice-Chair: Both questions and answers. There's about two minutes left.

Ms Bouey: There are outstanding contracts in several ministries with MFP. However, each of those ministries is doing any new computer leasing under the new corporate vendor-of-record arrangement.

Mr Duncan: Have any of those ministries abrogated or otherwise gotten out of or tried to get out of contracts with MFP?

Ms Bouey: The only way that they have been getting out of those contracts is according to the terms and conditions of the contracts.

Mr Duncan: Why was MFP removed from the vendor-of-record list in November of this year?

Ms Bouey: There was a second-stage competition of the type we've been talking about on vendor-of-record arrangements by one IT cluster that took place. MFP, as with the other vendors of record, had signed a master agreement. When it came time, they were the top-rated vendor in that particular circumstance. When it came time to fulfill, they chose not to do so. As a result, since they were unwilling to fulfill the obligation, we removed them from the vendor of record.

Mr Duncan: Are you in any legal situations right now with MFP?

Ms Bouey: Not to my knowledge.

Mr Duncan: Have they threatened action against the province?

Ms Bouey: No.

The Vice-Chair: One minute.

Mr Duncan: Had any of your senior officials been entertained by senior officials of MFP between 1995 and 1998, as part of MFP's desire to get consulting contracts for the management of computer leases, radio leases, with the OPP, I presume? It comes through your ministry. In that time frame, had any of your officials been entertained in any way, shape or form by MFP?

Ms Bouey: I think you can appreciate that since one doesn't keep track of people's off-hours, I could never speak with perfect assurance on that.

I could note one situation that has been in the public domain, related to Tony Miele of the Ontario Realty Corp. Mr Miele is not accountable to me, but we have discussed the situation and he has consented to allow me to share information. During his tenure ORC has had no business dealings with MFP. He did attend some lunches, dinners and one or two hockey games with officials of other organizations, including MFP. With respect to media reports that indicated he was among the passengers to Montreal on an aircraft to attend a hockey game, this information is incorrect. Mr Miele denied that invitation.

Mr Duncan: Is that why ORC was not here—

The Vice-Chair: Thank you, Mr Duncan.

Now if I might just establish where we're at at this time. Thank you to everybody involved in this session. Essentially, there is no time limit on the committee's meeting. In other words, we don't have to adjourn at a specific time. If in each of the caucuses you wish more

time with the folks with us today, certainly you have that. It may be a bit of a question as to how much time because we can continue through the lunch hour if, for example, we were going to go another round—I might suggest that those rounds be 10 minutes each—and this can continue until we're finished. It's kind of a question of whether the committee wants to break for lunch or whether we should just continue right on through, because we do have a lot of people with us at this time. Any suggestions?

Mr Duncan: Break for lunch, Mr Chair, and we would like to continue the line of questions after.

The Vice-Chair: So we will continue this afternoon. We will then break for lunch, may I suggest for an hour, and then we reconvene at 1 o'clock. This committee stands adjourned until 1 pm.

The committee recessed from 1151 to 1300.

The Vice-Chair: The standing committee on public accounts will continue its review of the 2002 annual report of the Provincial Auditor and, specifically, consideration of section 3.06, consulting services. As I suggested this morning, and I look for the consensus of the committee, we will go into a second round of questioning and at this time we'll have 10-minute rounds and see how the afternoon goes. Do I have consensus on that? Does that sound fine?

Interjections.

The Vice-Chair: We then will continue with the NDP caucus and Ms Martel.

Ms Martel: We're going in rotation?

The Vice-Chair: We're going in rotation.

Interjection.

The Vice-Chair: Well, it's the start of our second round. We finished with the Liberal caucus. Anyway, trust me.

Ms Martel: Thanks, Mr Chair. Deputy, when I finished my last round of questions, it was around issues of trying to replace consultants with OPS staff. The auditor in his report provided us with the list of consultants and their staff in the six ministries that were reviewed by him. I'm wondering if you have similar information with the rest of the ministries in the Ontario government—that is, the breakdown of the number of consultants and the number of staff attached to those consultants in the other ministries that were not reviewed by the auditor.

Ms Bouey: No, I do not.

Ms Martel: Can you provide the committee with that information?

Ms Bouey: I can take that under advisement and look into it.

Ms Martel: That would be very useful because some of the ministries that have fairly small numbers of staff in comparison, for example, with the Ministry of Health appear to have quite a large number of consultants and their staff still attached in that ministry. I'd be interested to see that breakdown.

I also wonder if it would be possible for you to give us a breakdown of the number of consultants and their staff matched against the number of OPS staff in the ministry,

so that you extend the information the auditor provided us not to just include the consultants, but if you could tack on as well what is the number of full-time OPS staff in that particular ministry.

Ms Bouey: Again, I'll take that under advisement and see what can be provided. I would note, though, that when a consultant bids on a project and indicates the number of people they'll be using, they don't always use those people anything close to full time. Sometimes they are using them just for one particular piece of work within the assignment and it may be a matter of half a day or something of that ilk, depending on the assignment. Normally, when we count OPS staff, we count them as full-time equivalents and I don't think we'd have the data established that way. Our systems just don't allow us to keep track of it that way.

Ms Martel: Well, I'm looking at the chart on page 181, which is titled "Consultant use at ministries: 2001/02." It lists four ministries, the source of the data being Management Board, Health and Long-Term Care, Natural Resources and Public Safety. If you could refer to that chart, can you tell me what the basis was for the information that was given? If you look at Management Board, the number of consultants is 170, the number of IT staff is 540, for a total of 710; consultants and staff at Management Board for the year 2001-02.

Ms Bouey: Yes, I see the chart. I don't have the basis for the data there. I presume it was with respect to some specific assignments. I'd have to look into that.

Ms Martel: I wonder if the auditor can recall what that was based on?

Mr Erik Peters: The chart?

Ms Martel: Yes. Was it based on full-time equivalents?

Mr Andrew Cheung: I'm not sure. I think it could be as at a certain day as well, as at March 31 or something, 2002.

Ms Martel: March 2001 to March 2002?

Mr Peters: And you're quite sure they're not FTEs?

Mr Cheung: No, they're not FTEs.

Mr Peters: They're not FTEs, not full-time equivalents.

Ms Martel: If we could have the basis upon which those numbers were arrived at, that would be useful. What is the basis, then, for the numbers if they're not FTEs?

Mr Peters: Head counts.

Ms Martel: Just over the period of the year.

Mr Peters: At a point in time.

Ms Martel: Let me ask about consulting services generally. I understand that you're now going to make it a requirement for ministries to file their annual reports, which would include the consulting services used over the period of a year.

Ms Bouey: Yes.

Ms Martel: What do you have on file at present with respect to the number of consulting arrangements per ministry?

Ms Bouey: At this point, we would not keep systematic files on that. Some information would be available through the various financial systems, but the way it is compiled is on the basis of payments, so it's a little hard to deal with how—it depends on the timing of the payments and so on. So we don't have systematic records right now.

Ms Martel: So you're not in a position to tell the committee, for example, how many contracts there are across ministries at this time.

Ms Bouey: That's correct. I'm not in that position.

Ms Martel: You're going to be in that position when they have to file the annual reports.

Ms Bouey: That's correct. I think we're also looking for the integrated financial information system to be helpful when it's fully implemented in that regard as well.

Ms Martel: When that is implemented, what will the fiscal year be as a starting point for that information?

Ms Bouey: I believe that the justice ministries are in the last wave, in the fall of 2004, so I think the first full year that we would have information would be 2005-06. However, we will be working through annual reports next year.

Ms Martel: So by the end of fiscal 2003-04, we should have an idea of how many contracts there are per ministry?

Ms Bouey: There would probably be a bit of a lag because the ministries would have to submit the report after the close of the year, but yes.

Ms West: Maybe I can just supplement that question. I think Deputy Bouey was referring to the IFIS system in particular. That will be a helpful tool as well to collect this information. I mentioned earlier that the Ministry of Public Safety and Security is putting in place a contract management database, which we're hopeful will be fully populated within the next few months. I suspect that, as with other ministries, they're putting in those types of tools as well. We would be in a position to be able to provide that sort of information earlier. Obviously there would be a more rigorous system through IFIS as well and through the mandatory reporting. We are trying to get a handle on both our use of consultants, to ensure that we have better control of them, and as early as we can do that as possible, we will, and when Management Board requires the annual report, then we'll be better prepared to do that as well.

Ms Martel: I have questions on two contracts that were referenced by the auditor. The first one was with the Ministry of Health and Long-Term Care. The concern that was raised by the auditor was that they were multi-million dollar information technology contracts that did not follow the requirements for an open tender process. The ministry's approach was to subdivide the tender into smaller assignments, and then the consultants were selected from the VOR list. The one that I'm particularly interested in has to do with the Smart Systems for Health Agency, a transfer payment agency that I gather cabinet approved the establishment of in October 2000. The

auditor reported, "At the time of our audit, the ministry had yet to establish the agency and anticipated that it would be established by September 2002." My particular concern was that the ministry had begun development of the network and was engaging consultants from the VOR list. As of March 31, 2000, they had nine full-time staff. In addition to the nine full-time staff on the project, there were 65 more consultants and the per diem range is quite large, from \$435 to over \$2,100. Can you tell us, Deputy, what the status is of this particular contract at this point in time? And, in light of the auditor's comments, have you changed your method of procuring your consultants for this particular contract?

Mr Hassen: I think Smart Systems for Health is a really critical piece of work that we're doing in health, as you probably know. It's really the backbone of our health system in terms of an information system, and it will be really critical to our success in ultimately making it viable.

In that regard, Smart Systems for Health has now been set up as an agency. It's now beginning the transition into hiring people for those positions where it can. It may selectively use consultants, but right now the whole strategy is to see how many people we can move into the staffing pattern for that agency. So that work is being done as we speak.

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Ms Martel: For the consultants you still continue to have on this project—maybe you can tell us how many—have you responded to the auditor's concern, which was essentially that you were using the VOR list, which would allow for per diems to be paid, instead of a fixed contract for work to try to lessen government costs? Have you changed the process by which you're hiring these consultants for this project?

Mr Hassen: The issue as I understood it, and maybe I can be corrected if I have it wrong, was in part that we were breaking down the contracts into parts that were less than 500,000, which might have otherwise as a whole contract been RFPed, signed. The time, I would say first of all, that some of the parts require—they're very specific projects and you can't break it down. The other is, you have to break it down into its pieces. Some of the parts have to be broken down as pieces.

The difficulty is that I think we were interpreting what we thought was a project, and what the auditor was attempting to do was to say there should be more integrity to having the whole thing contracted out. We're having to modify some of the ways in which we do this, because it clearly was a difference of our understanding. We accept that there was a difference of understanding on some of them. On other parts of it in fact we will continue, because it is a defined project.

So there are two things going on here. One is the defined projects and ensuring that we are properly following the rules as they are described to us by Management Board and, secondly, the issue you're describing, which is that we probably were misinterpreting how this

project should be done and that we should have RFPed some of the larger ones. We will do that in the future.

The Vice-Chair: Ten minutes go by rather quickly. We move to the government caucus. Any questions?

Mr McDonald: I have some questions for Mr Hassen, if I could. Mr Hassen, could you tell me a little bit about Smart Systems for Health?

Mr Hassen: Yes, I can probably begin it. If you would like more than what I'm going to provide you, I'd be happy to have one of my staff assist me on that.

Smart Systems for Health is being set up to be the third party to manage the databases and the infrastructure required to manage databases for the entire provincial system for the health of people. So the criticalness of privacy, for example, is critical to us. It's vital that we have it be the best system in the world. It can't be compromised, because privacy of people is involved. Therefore, for example, we've hired a consultant for that who is internationally recognized. He does chair the international group that is undertaking privacy as its subject matter. So the standard we have for this is far above what you might have in any other situation. It's not just information; it's personal health information. I've certainly toured the beginning of the facilities. The data centres will be highly restricted and protected against any violation, whether it's physical or electronic, so that the data are protected.

The other is that the agency has been set up to ensure that it is somewhat removed directly from government so that people see it as having the integrity of privacy for them. If I can describe an analogy, when building a building or subdivision, all the stuff that goes underground, all the pipes and everything that eventually connects all the houses, is a lot of cost and it needs to be done before you can actually begin to connect. That's what Smart Systems for Health's responsibilities are, in a simple way, if I may. It's obviously much more sophisticated than that. It eventually is to set standards so that we can connect all the hospitals and all the physicians to support primary health care reform, CHCs and laboratory reform. There is a whole series of events that will take place as an adjunct to this particular service.

Mr McDonald: I just have one more question, so I don't know if the members of the committee and maybe Ms Bouey—just to follow up on some of the questions one of the members of the committee was raising regarding MFP, I wanted to go back and do a little research to see what this was all about. When I went back to research our public accounts of Ontario, I see that MFP has been working with the government since 1988. Are you aware of that?

Ms Bouey: I believe it's either 1988 or 1989.

Mr Neil Sentance: Neil Sentance, director of procurement policy, Management Board Secretariat. Yes, that is correct. MFP was first engaged by the government in 1989, I believe.

Mr McDonald: I see it's McLeod and Kerrio. I guess they were hired to do something with the MNR?

Mr Sentance: I believe it was to provide lease financing for servers and other information technology equipment.

Mr McDonald: They worked with Comsoc as well. It looks like it's about \$2 million here.

Mr Sentance: Yes, through a competitive process that was run in 1994, MFP was selected as a leasing vendor for the Ministry of Community and Social Services at that time and was the leasing vendor for that ministry for a number of years.

Mr McDonald: I see right through here—I'm looking at fiscal 1990-91 right through to 1995—they were employed by the government of Ontario, or were they the consultants for the government of Ontario at the time?

Mr Sentance: MFP provided lease financing services to the government of Ontario and also provided what are described as value-added services for installing computers, configuring computers and removing them at end of lease, but was not a consultant per se.

Mr McDonald: It looks like the total expenditure here from 1990 to 1995 was about \$94 million.

Mr Sentance: That is correct in terms of our research, yes.

Mr McDonald: So they've had a working relationship from 1988 forward?

Mr Sentance: In 1989 I believe they first engaged with the Ministry of Natural Resources, and through a competitive process were selected as a lease financing company by the Solicitor General in 1993, and subsequently selected in 1994, through a competitive process, by the Ministry of Community and Social Services. So yes, through the early 1990s, through a number of processes, MFP was a leasing company. Subsequently, GE Capital became the corporate vendor of record in 1996, and after that, EDS Systemhouse also became a leasing company throughout the late 1990s.

Mr McDonald: Is MFP dealing with the government of Ontario at this point?

Ms Bouey: MFP is dealing in terms of contracts that were already existing. For anything new, that is covered under the corporate vendor of record, which now is mandatory and has been since last year. As a result, since they are not on that corporate vendor of record, there is no new business going to them.

Mr McDonald: Just maybe to further my point, the records I've got, going back into the archives for public accounts, show the MNR hired them back in 1988 and 1989.

Ms Bouey: Yes.

Mr McDonald: So that's when they first—

Mr Sentance: Yes. I believe that was for servers.

Mr McDonald: OK. I don't know if the committee has—

The Vice-Chair: Mrs Munro.

Mrs Munro: I would like to come back to a question that I had begun to raise in the last round, and that has to do with the issue that has been raised about the importance of transfer of expertise and transfer of knowledge. I wanted to ask you about the way in which you see that

transfer taking place and how it fits in with the strategy with regard to attracting and retaining members of the public service.

Ms Bouey: That is something we are very concerned about. We are doing a number of things. I think my colleague mentioned, for example, that we are attracting interns in terms of getting them engaged in the IT and electronic service delivery, just right out of school or shortly thereafter.

We are generally looking at ways where we can take our existing staff and enhance their skills in areas like project management, knowledge management and a host of other things that we need and are continuing to need on a greater basis. We're in the process of introducing a new category to staffing that was enabled under the recent amendments to the Public Service Act called term classified, which will allow us to hire staff on a time-limited basis, but it's different than unclassified staff because there is the ability to allow these staff to have benefits very similar to those that the classified staff receive.

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We are generally looking, as projects come forward corporately—and I'm sure now the ministries are as well—at how these are being resourced to ensure that we can sustain the projects that come out of it, the ongoing work that comes out of it in terms of having the knowledge and skills in place, that that knowledge is transferred while the project is under development. I think those are the highlights of that.

Mrs Munro: Would you see, then, those initiatives that you've undertaken as addressing, in a long-term way, some of the sensitivities around the need to have people whose expertise may be extremely focused and therefore in short supply? Do you see that need for those people diminishing to some degree as those transfers of expertise and knowledge are made?

Ms Bouey: Definitely, I think we see that possibility. I think we're also looking, though, at how we can attract and retain people in terms of having them understand the quality of work that is available in the public service and trying to get the message out that the work inside is interesting, it makes a difference and that there's really a wide variety of careers available when you take a job in the public service.

One of the issues we're going to be facing over the next few years is that we will have a disproportionate number of people who can retire. Just as with everything else, the baby boom is going through our system. Because of constraints and downsizing over the years that date back for more than a decade, essentially we have perhaps a slightly older workforce than the average one. It is therefore very important to us that we take action to be perceived as an employer of choice.

The Vice-Chair: Thank you. The 10 minutes are up. To the Liberal caucus.

Mr Duncan: This morning in response to questions from me with respect to the wining and dining of senior officials by MFP, you identified Mr Tony Miele of the

ORC. Were you aware that Chris Hodgson, while Chair of Management Board, was the guest of Dash Domi and MFP in a box at Maple Leaf Gardens and, secondly, do you think it appropriate that while he was Chair of Management Board he ought to have taken that? Finally, it was reported in the Kitchener-Waterloo Record that while he was Chair of Management Board, the Management Board issued a directive that all ministries were to lease computer equipment rather than buy or build it themselves. Were you aware of this at the time? What would your advice have been to the minister under these circumstances about the appropriateness of him attending with Mr Domi and MFP at Maple Leaf Gardens?

Ms Bouey: I was not aware of those circumstances at the time. I believe that ministers are governed by the Members' Integrity Act and therefore this would be a matter for the Integrity Commissioner to determine whether the action was appropriate or not. It would not be up to me to so determine.

In terms of the lease versus buy, we have done a lot of work around business cases on that. I believe the Provincial Auditor, in his 2000 report, basically wanted us to make sure that we were looking at the total cost of ownership of computer systems and so on, and we have recently revisited it. Prior to introducing our corporate vendor of record, we have looked at the business case on—

Mr Duncan: So then you did direct that computers be leased and not bought at that time?

Ms Bouey: I would have to verify with my staff on that.

Mr Duncan: Could you, please, for me?

The next line of questioning I had was, you told me this morning that you had in fact released contracts for MFP. What you released was one contract that was signed on July 13, 1994, which expired in January 1997. As I read through that—and by the way, this lease document compares quite closely to Toronto agreements and Windsor agreements, and I would urge you to look at the statement of claim filed by the city of Windsor.

In reference to the lease payment, "The periodic payment during the initial lease shall be the sum set out in Appendix A." Software licence prices: see Appendix A. Purchase option price: in Appendix A. Upgrade price: see Appendix A. Interest rate calculation—and this is essential; this is where the differences are appearing now in court and inquiries—see Appendix A.

What you gave us for Appendix A was a blank piece of paper. You refused, on repeated occasions, to provide the interest payment calculations that were dealt with. Not only did you refuse to release the entire document, you took out every piece of salient information that relates directly to what's happening in Toronto, Waterloo and Windsor.

This information is now a matter of public record in other contexts: in the case of the city of Windsor in their statement of claim; in the case of the MFP inquiry in Toronto. Will you now undertake to release the information with respect to interest payments, software and all

the calculations that are now being shown, in two public inquiries and in a civil action, to have cost taxpayers in some instances more than twice as much as was bargained for?

Just to make the point more, we have asked for over 1,000 pieces of information, and in each case the important, meaningful information was removed from the documents. Will you undertake today to release the terms of agreement between MFP and the various ministries of the government that you so far have managed to stone-wall us on and not provide anybody with?

We have compared this agreement with the agreements before the civil courts in the Windsor situation, and they are remarkably similar except, in the province's case, you have deleted the salient information. Will you provide that information to this committee?

Ms Bouey: I would like to begin by assuring the committee that I take my obligations under freedom of information and protection of privacy very seriously and feel bound by the legislation.

In terms of the reason those sections were deleted, as you may be aware, section 17 provides an exemption for confidential commercial and financial information of third party contractors to the government where disclosure would harm their financial or commercial position in the marketplace.

Mr Duncan: I would submit that this information is no longer confidential, Mr Chair; that in fact it has been provided at two inquiries that are going on. I would also question whether or not this should be kept from a member of the Legislative Assembly. As a member of the Legislative Assembly, at the very least it should be shared in camera.

Ms Bouey: If you would like to hear about the differences—and there are some substantial differences between our contracts and those of the city of Toronto—

Mr Duncan: I'd like to hear what the interest rate calculations are, Chair.

The Vice-Chair: I—

Mr McDonald: Come on, Chair.

The Vice-Chair: Excuse me; you can come to order, Mr McDonald.

I said to the members this morning that I would appreciate it if the questions were kept succinct and that the answers be kept succinct. We'd all like to hear them.

Ms Bouey: In terms of the differences with the city of Toronto, perhaps I could ask my colleague Neil Sentance to elaborate on this.

Mr Sentance: Yes. In reviewing the public documents with respect to the city of Toronto, we identified a number of key differences between our current vendor of record, which we tendered in 2001—

Mr Duncan: On a point of order, Mr Chair: We are not in a position to make that determination because you haven't provided us with the province's information. So any comparison you make to the Toronto agreements with the provincial agreements, I have no way of verifying the veracity of what is said.

The Vice-Chair: Mr Duncan, I don't know that that's a point of order. You've asked a question. The deputant is answering it to the best of his ability, I suggest. So we should conclude his answer and move on.

Mr Sentance: A number of key points of difference between the city of Toronto situation and the vendor of record which we put in place in 2001: in particular, the provincial vendor of record required that the lease rates be tied to the government of Canada bond rate, and those would be fixed for the duration of the contract.

Secondly, we put very strict written controls with respect to what could be leased under the agreement, and that only included certain classes of hardware. We required all vendors of record to sign the MBS master agreement without amendment, and we maintain strict controls over the scope of that agreement. Again, that is related to specific asset classes of desktop equipment, servers and printers.

Mr Duncan: Did you say 2001?

Mr Sentance: When we went out to tender for a competitive process for a new vendor of record.

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Mr Duncan: Mr McDonald established earlier that the province has been doing business with MFP since 1989, so you're saying between 1989 and 2001, and most of the contracts we're concerned with and the payments that we've seen under public accounts had to deal with contracts that were before 2001.

Mr Sentance: We went from a situation where individual ministries, through competitive processes, were establishing arrangements with leasing companies, including MFP, but also including GE Capital. At the recommendation of the Provincial Auditor in his 2000 report, we initiated a process to establish a corporate MBS vendor of record which will, in a short period of time, replace those existing ministry agreements. As the Provincial Auditor recommended, it's appropriate we do a corporate, enterprise-wide vendor of record, and we have done—

Mr Duncan: So those leases between 1989 and 2001, then, were not subject to this?

Mr Sentance: No, those are existing leases which are being replaced—

Mr Duncan: Those are the leases that are in question, with all due respect.

Mr Sentance: —by the new agreement.

The Vice-Chair: Mr Duncan, just let him finish, please.

Mr Sentance: Thank you, Chair. Yes, those existing leases progressively have been wound up or are in the process of being wound up. All IT clusters have selected a new vendor of record through the corporate process we established last year, and that will be the structure upon which ministries will lease computers, going forward from February 2002.

Mr Duncan: I would suggest, then, that the interest calculations on every one of these agreements ought to be released. I do not believe they impact on the company's commercial viability. I believe it's in the interests of the

taxpayers that they be released. The fact that you didn't deal with it until 2001 and didn't in fact remove MFP as a vendor of record until November 2002, some three months ago, indicates to me that at the very least there are calculations and interest payments out there that will approximate and approach the kinds of situations that are being explored now in Toronto, Windsor and Waterloo.

Will you release that information—the actual cost of the lease that was interpreted at the beginning versus what the actual lease payments may be—as well as the other information that has been blanked out on the only MFP contract you folks have released through freedom of information? Will you undertake to the Legislative Assembly that this information ought to be subject to public scrutiny?

Ms Bouey: I would note that all those contracts were the subject of third party reviews; at least, I think all of them were.

Mr Duncan: Who would the third party have been?

Ms Bouey: It varied. We had an internal audit. Some were reviewed by the Provincial Auditor—not all.

Mr Duncan: Would MFP have been one of the third parties?

Ms Bouey: No. I'm talking about—

Mr Duncan: They didn't block any of the access. So it was other government departments that blocked access to this information?

Ms Bouey: I think it's important to note that the release request came through under freedom of information and protection of privacy, and when there is a third party involved, we are obliged to notify the third party, let them make representations and then determine whether—

Mr Duncan: You said this morning you were interested in—

The Vice-Chair: That concludes the 10 minutes. We can move on, please.

Ms Martel: I had another question for the Deputy Minister of Health and Long-Term Care. It relates back to the project we've been talking about, which is Smart Systems. I understand, Deputy, your explanation with respect to why the assignments were unbundled. My question, though, really has to do with why we are paying on a per diem basis. What I'd like to know is, given that the project is only really getting underway in terms of hiring, which leads me to believe there are lots of consultants still working, is there not any opportunity to move away from the per diem payment that was already established to a system of payment that would be based on a fixed time frame and a fixed deliverable, so we can start to bring some of those costs down? The costs, as the auditor reported, were quite significant in terms of the per diem for the fiscal year 2001-02.

Mr Hassen: I think you're correct. As the agency has been informed, there are processes now to remove that as a way of paying and having people as staff. There's no question that's where we're going. I can't say all of them, because I'd have to go through the detail. I don't know whether Lorelle has a comment on that, but let me make

just one other comment, if I may, to a previous question. You asked about those 15 consultants. None of them are around any more. They've all terminated. They were short-term contracts, and they are no longer doing those. Those projects are completed.

Ms Martel: And they haven't been replaced by 15 others?

Mr Hassen: No, I don't think so. Lorelle is the leader in that area. She advised me that they're all gone and those projects are completed.

The other thing is that Smart Systems for Health is as complex as I've mentioned and I've tried to allude to it. Probably a larger context would help, but it is eventually about linking 150,000 users across the province. Every health care worker with certain levels of access will have it, so it is a very difficult and complex project that does require that expertise. But we are moving in that direction. Maybe I can let Lorelle Taylor, the head of the IT cluster, speak.

Ms Lorelle Taylor: I'm Lorelle Taylor, the chief information officer for the Ministry of Health and Long-Term Care. I will speak to three points in answering your question on Smart Systems for Health.

Number one, Smart Systems for Health is, as Deputy Hassen mentioned, one of the most complex IT infrastructures to be implemented in the province. In looking at a risk management strategy to ensure value for money and ensuring a quality system that's available 24 hours a day, seven days a week for those Ontarians using the health care system, we have had to ensure that we have the top quality consultants and staff working on this initiative.

Recognizing, though, the Provincial Auditor's concerns in approving the Smart Systems for Health Agency, point number two, Smart Systems for Health has been mandated through the approval process to adhere to open, fair and transparent procurement and they are making every effort to do so.

Thirdly, we are in the process of establishing the agency and having a staffing model of permanent staff.

Ms Martel: Just so I'm clear, I'm not disputing the expertise you needed, I'm disputing how you paid them: how they were contracted and how they've been paid. Clearly, the auditor has suggested that you look at a fixed contract, fixed deliverables. Is that what the ministry is now doing?

Ms Taylor: I'm sorry, I didn't say that. Yes, we are.

Ms Martel: I had a question, then, with respect to another of the contracts the auditor dealt with, and that was the contract entered into by MBS with a consulting firm to review real estate transactions that have gone on at the Ontario Realty Corp. The auditor raised specific concerns about the original potential fees going from \$150,000 to the range of \$500,000 to close to \$6 million. Is this contract now over?

Ms Bouey: Yes, I believe that contract is now closed. I will verify that.

Ms Martel: Then with respect to the same issue, because there was certainly the forensic audit that was

done by the forensic accounting firm, but there was also a communications firm that was hired at the same time to deal with the communications issues that arose from some of those real estate transactions. I didn't understand why the process for creative communications and consultants for the same doesn't come under the directive as well; it seems to come under a different process. Why is that?

Ms Bouey: There is a separate set of directives for advertising and creative services. In terms of the ORC's specific situation, they were in transition at the time. They had not staffed up their communications function and then found themselves, as you mentioned, in the spotlight due to issues around the sales. They've taken action now to have more staff internally and to go through the Advertising Review Board process in terms of hiring any creative communications functions that they need.

Ms Martel: The concern I had was that there were lots of problems with the MBS directive on consulting, with people not following it, but there seemed to be even less protection for the taxpayers under the process used for creative communications. My concern would be, what steps are you taking to change that process to ensure that you're actually getting value for money? Because it was clear, even from the one example the auditor provided, that there wasn't value for money.

Ms Bouey: In terms of the particular example the auditor identified, one of the things was that because of how those particular contracts came about and the fact that they didn't have staff in place, they did have vague terms of reference, they didn't have ceilings, letters of agreement were not in place—in other words, this was sort of managing through a crisis situation; it was not a systematic approach to managing. For that reason, the ORC board has acted to put an ongoing communications function in place and to approach this more systematically.

Ms Martel: I think it goes deeper than that, though, Deputy. If I look at the auditor's comments on page 206, as he describes the situation, he talks about the largest firms being chosen through standing agreements with MBS's advertising review board and some of the dilemmas or problems with the standing agreement. So while it was a specific problem with MBS, as I read it, it's a much larger problem with the Agency Review Board and whether or not the process you have to hire consultants for creative communications gets us value for money. So I'm concerned about the broader process of the use of standing agreements and what that means and what, if any, changes you're making—obviously, you've dealt with ORC—to deal with other consulting contracts for creative communications that will come.

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Ms Bouey: We do go through a vendor-of-record process for advertising and creative communications that works somewhat differently. I'm just trying to find my notes on this. It is a full competitive process in terms of how the sub-list of consultants is provided. There are

some restrictions. I believe that a competition is not necessary if the amount of the contract is to be below \$50,000. The Advertising Review Board, for the very large contracts, takes over the whole process. So it works that we have had a sort of prior qualification process and that firms are either selected or assigned. I can certainly undertake to provide you with more information on how that process works and who is currently on it, if you're interested.

Ms Martel: I'd also like to know if you're contemplating any changes to it. At the same time as you're changing the directive for consulting services, are you looking at a second set of arrangements to see how the rules around that might be tightened up as well?

Ms Bouey: We're looking specifically, as we are with the procurement directive right now, at the issues around any potential conflicts of interest. In terms of other improvements, we're always monitoring that situation, but at the moment we're not as close to making changes to that as we are to the procurement directive.

Ms Martel: The changes that will come to a vendor of record: can you just describe them for the committee again?

Ms Bouey: Yes. I believe in the break you were actually given a handout that summarizes the various changes we are contemplating. Essentially, though, what will be required is that, first of all, the vendor of record can only be used up to a threshold amount of \$750,000 and after that there has to be a full competition. That amount takes into account the related contracts, so people can't subdivide any more. For contracts above \$25,000 and below \$250,000, I believe at least three firms will have to compete for the assignment; for assignments between \$250,000 and \$750,000, at least five. So we have basically come up with a regime that we're looking to implement that will require further competition at the second stage for vendor-of-record arrangements, and all of that, of course, will have to be documented.

The Vice-Chair: Surprisingly enough, 10 minutes has expired. We'll go to the government caucus.

Mrs Munro: I wanted to ask you further on the issue that we have just been discussing with regard to choosing vendors and the kick-in stage in terms of the value of the contract. Are there situations where the expertise is so special that there isn't much to choose from, there aren't many providers of particular expertise?

Ms Bouey: That could be the case in some very specialized areas. It should not normally be a problem for vendor-of-record arrangements, because they essentially are designed to take a relatively narrow subject matter area. For example, there's one for leasing—although that's not consulting—and there's one for program evaluation services. You obviously would have a range of companies or individuals who might seek to be placed on that and some of them might have the capacity to do larger ones than others. It was actually for the reason that there was likely to be a divergence in the skill base and the pricing that I believe the Provincial Auditor was anxious that we have a second stage introduced.

Mrs Munro: We talked earlier today about the question of those contracts and the notion of deliverables. Certainly in other areas of government, we talk about outcomes and things like that. Clearly, the procurement policy speaks to those kinds of issues. What kind of penalty is a vendor under? Are there some things that come into play should there be a problem?

Ms Bouey: Yes, provided the deliverables are properly defined, there can be penalties. The structure of that would likely be designed on the basis of the risk assessment of the individual contract. Perhaps I could ask Neil Sentance to do a bit of elaboration on that.

Mr Sentance: Typically, we would have a variety of remedies or penalties in standard contracts which would relate to such things as breach of confidentiality, some particular breach of IP warranty and other provisions whereby we would seek damages from the vendors in terms of recovery of procurement costs, in terms of monies paid and potentially other damages, particularly if there is an impact on a third party because the vendor failed to perform properly. So we're working to have contracts which have very significant levels of remedy and protection to the crown in them so that in the event there is a failure to perform or something else goes wrong in the contract, the crown can draw on those contractual provisions and take the appropriate steps.

We certainly have, in vendors of record, some systematic dispute settlement processes so if there is an issue at the client level that can't be resolved, that would then come to the central contract manager and we would attempt to resolve the issue. At the end of the day, if those issues cannot be resolved, then the crown has the right to terminate the agreement because those situations cannot be resolved.

Mrs Munro: Clearly, from your description, what you're talking about is a process that is undergoing refinement as the whole vendor-of-record process goes under review as well. Is that—

Mr Sentance: Yes, that's correct. In addition to the directives, we have been working on, again, streamlining our contractual provisions so that they are exact and clear in terms of the obligations that we expect all vendors to follow in terms of reporting what they're doing, in terms of knowledge transfer, which was a key concern of the Provincial Auditor, and to make sure that our contracts, in addition to the policy, do implement all of the obligations that we feel a vendor should follow so that, again, we can transfer that knowledge to OPS staff and we do have the remedies in place should the vendor fail to perform.

Mrs Munro: Do we have any sense of the reaction of vendors to raising the bar?

Ms Bouey: At this point, we have not engaged in a direct discussion on these specific elements. Obviously they have concerns about that kind of thing, but I think at the end of the day our first obligation is to make sure we are getting value for the taxpayers.

The Vice-Chair: Any further questions from the government caucus? I'll move to the Liberal caucus.

Mr Duncan: Under questioning in the House on October 28, 2002, the Deputy Premier defended the MFP deal and told MPPs that MFP was in full compliance with the master contract. I quote from Hansard, "I can tell you that the company has complied with all the mandatory terms of the RFP and the master contract set out by MBS." Just one week later, the government cancelled the contract. MFP was removed from the province's vendor-of-record list on November 4 for—and I'm quoting Julie Rosenberg, a spokesperson for the province's Management Board Secretariat—"failure to perform under the terms and conditions of the new master lease agreement." That was quoted in the Kitchener-Waterloo Record and the Toronto Star on December 21, 2002.

I have a number of questions. First, does the Deputy Premier get briefed on contentious issues before attending question period? Second, would it be fair to say that the government's dealing with MFP would have been identified as a contentious issue in late October 2002? Third, why did the deputy minister tell the Legislature everything was fine when clearly there was serious trouble? Specifically, I want to know which obligations MFP wasn't meeting with the standard lease contract. Were taxpayers not receiving value for money? If not, how much money was lost?

1350

Ms Bouey: I think you can appreciate that I would not be knowledgeable about whether the Deputy Premier is briefed on contentious issues. In terms of the MFP situation, what happened, as I indicated earlier, was that they were on our corporate vendor of record. There was a competition involving the justice ministries. They were the top-rated proponent and therefore were invited to enter into the agreement to supply the leasing services. What happened then was that they chose not to fulfill that. As to why they chose not to fulfill that, that was their decision, not ours. But because they did not fulfill, we removed them from the vendor of record. If you want to know whys of that, you'd have to ask the firm in question.

Mr Duncan: If I might, I'd like to quote Julie Rosenberg, from your ministry, spokesperson for the province's Management Board Secretariat, as quoted in the Kitchener-Waterloo Record and the Toronto Star on December 21, 2002: "MFP was removed from the province's vendor-of-record list" on November 4 "for 'failure to perform under the terms and conditions of the new master lease agreement.'" That appears to contradict what you just said to me.

Ms Bouey: No, it—

Mr Duncan: Let me finish my question, because I did throw a number of questions at you and I'd like to pose this one specifically. Which obligations wasn't MFP meeting in the standard lease contract? Can you identify those for me? Your officials said that MFP was failing to "perform under the terms and conditions of the new master lease agreement." Can you tell me specifically what areas they were failing to perform under?

Ms Bouey: Yes. They were asked to provide leasing services. They chose not to do so. No dollars changed hands.

Mr Duncan: So they refused. What about the existing agreements? You cancelled the contract for failure to perform. So are you saying MFP stopped leasing equipment to the government, that you didn't in fact get rid of them; they got rid of you?

Ms Bouey: In terms of the master agreement, they were required to follow certain conditions and provide leasing services. They chose not to enter into those leasing services.

Mr Duncan: If I may, what were those conditions?

Ms Bouey: They're a fairly extensive list.

Mr Duncan: I imagine they would be. Can you provide this committee with that information? Your officials suggested they were not meeting the terms and conditions of the master agreement. I want to know specifically which terms and conditions they were failing to meet.

Mr Santance: If I may, Chair, there are two clauses in the contract that are of particular importance here. One relates to conflict of interest, where all proponents are required to declare and affirm that they have no conflict of interest. There is also a clause colloquially known as the hell-or-high-water clause, which essentially means that regardless of what happens, we agree to settle any outstanding financial obligations should the contract be terminated. During the course of the summer of 2002 we had a number of discussions with MFP around the interplay between these two provisions. This discussion was positioned to me as, I think, theoretical. We were under the assumption that MFP would proceed. They sought clarification on what would trigger a default under conflict of interest, and in the event of a default under conflict of interest, what the crown's obligations would be to pay out or return equipment with respect to any leases that have been entered into.

Mr Duncan: Can you elaborate on these conflicts of interest?

Mr Santance: The conflict-of-interest clause is the standard provision that is in all contracts now.

Mr Duncan: What conflicts did they have specifically that you were concerned about?

Mr Santance: I was not concerned about any conflict. They asked me what would theoretically or in fact trigger an event of default in which MBS would then take the decision to terminate the contract. The position that we provided back to them through the advice of counsel was that we will not speculate with respect to what particular facts would trigger a conflict of interest. In our view they had signed the contract to agree to the terms and conditions—

Mr Duncan: Just so I understand: MFP approached you, and I suspect then that they were concerned they in fact may have had a conflict of interest. Is that accurate?

Mr Santance: I do not know the basis which drove their question. The question put to me was, would I elaborate or otherwise explain what would be an event

that would trigger a default for conflict of interest. I was advised by counsel that we would not limit our rights in advance by specifying any situation to trigger conflict of interest and that MFP was expected to execute the terms of the contract as signed.

Mr Duncan: So then you in fact had lawyers working on this file?

Mr Santance: Continuously.

Mr Duncan: Continuously. When did lawyers begin working on this file?

Ms Bouey: If I might, when we're involved in contracts, we always have lawyers advising us.

Mr Duncan: Yes, I understand that. When did the lawyers become specifically involved in this instance and was it triggered by your concerns about interest rates that were contained in any of the contracts?

Mr Santance: As Deputy Bouey has indicated, I have counsel with me at all points in the process and advising on finalizing contracts. If there are any issues that a vendor wishes to raise with respect to the meaning of a contract, I invite counsel to sit in and provide advice on that. These are often routine matters. In this case, MFP raised a specific issue which required that I invite counsel in to provide a specific opinion with respect to what advice I would provide back to MFP, and the advice was that we would not in any way restrict our rights through providing a clarification or any other information which would describe what we would consider to be a conflict of interest and that we expected MFP to execute the contract terms as they had agreed to.

Ms Bouey: And signed.

Mr Santance: And signed.

Mr Duncan: Do I have more time?

The Vice-Chair: There's two minutes less eight seconds.

Mr Duncan: Did your counsel advise you of any concerns with the interest rate calculations on any of these contracts?

Mr Santance: That was not part of the discussion.

Mr Duncan: Not part of that discussion. At any other time was it part of the discussion?

Mr Santance: The discussion I had with counsel was entirely around developing the RFP and developing the pro forma contracts—

Mr Duncan: At any other time did counsel advise you of concerns with the interest payment schedules contained in these agreements, that bear a remarkable resemblance to the Toronto agreements and to the city of Windsor agreements? The city of Windsor agreements have been filed in a civil action. At any time were you advised that there may be some concerns with provincial agreements with MFP?

Ms Bouey: If I might, we have structured the financial terms of this vendor of record on quite a different basis than has been said publicly, anyway, in the inquiry about the Toronto arrangement.

Mr Duncan: Would you be kind enough to release the details of those arrangements so that we can scrutinize them?

Mr Sentance: We have the RFP and the standard contract, which is public information; we can provide that.

Mr Duncan: But we also need the schedules that outline the lease payments, the interest rates. This is the crux of the matter in Toronto, Windsor, Waterloo and elsewhere.

Ms Bouey: If I could note, the specific structure of the lease payments and so on would have been the result of them entering into the specific assignment with the justice ministries. That did not happen.

Mr Duncan: I would remind you that in the cases of Toronto and Windsor, in any event, testimony has been given that senior officials in fact did not catch the problems associated with the MFP contracts. What I'm asking you is, will you release the details of the contracts with Ontario so that they can receive the same kind of scrutiny as those contracts that have been entered into with the broader public service so we can have the assurance that that kind of scrutiny has been there and that the taxpayers of Ontario have not been faced with the same kinds of concerns that taxpayers elsewhere have been faced with? Can you release that information?

Ms Bouey: I think we have, over the course of years, had a number of reviews done, as I mentioned: third party, the Provincial Auditor, internal audit and a consulting firm that specializes in IT leasing have all reviewed various of these contracts. To the extent there were issues, they were addressed.

Mr Duncan: I would—

The Vice-Chair: Thank you. We'll have to move on to the next round.

Ms Martel: I'd like to return to the vendor of record.

Deputy, you told us that the threshold will now be \$750,000, after which time there would be a full competition required. I question that, because if I look at the previous directive, I thought I read that a competition would be required if the ceiling price, or the threshold, was greater than \$25,000, and that same trigger would occur for IT consultants if the tender price was greater than \$500,000. Correct me if I'm wrong, but it seems to me that you've significantly increased the threshold at which you would have a full competition. I'm wondering why you did that.

1400

Ms Bouey: The vendor-of-record arrangements basically represent a two-stage competitive process. The first set of competitions is essentially to get on the list. At that point we go through all the mandatory requirements for that area of consulting. We look at the quality of what they're willing to provide and we also look at the pricing arrangements and then there's a decision as to whether they'll be selected for the vendor of record or not. It is a pre-competition, if you like.

What we are now proposing is that for anything over \$25,000 that's on the vendor of record, they have to have a subsequent competition. The issue is just how big that competition has to be, because there's an awful lot of administrative work, both for the officials involved and

also for the companies involved, each time. So what we've tried to do is strike a balance between having a full competition every time and having a less complete competition, but where we've already gone through a fair bit of screening and evaluation. But we also are saying we cannot take something that is going to cost over \$750,000 and basically try and use the vendor-of-record arrangement. That has to be completely open. That's how we've tried to get that balance. In terms of things that aren't on the vendor of record, the over-\$25,000 rule still applies.

Ms Martel: Do you have a distinction between a competition for IT consultants and a competition for consultants who are not providing IT services? There was a distinction made previously, both in the directive, as I see it, and in the previous vendor of record. Is that distinction being maintained in—

Ms Bouey: No, those rules are now the same for both. That was part of the tightening up.

Ms Martel: OK. I had a question with respect to your comments that were made several times about the ministry really trying to do some work now on knowledge transfer as a result of the auditor's comments that consultants continue to do ministry stuff. The greatest concern I have is not an agency that was dealt with in this particular section, but in another done by the auditor in this report, and that has to do with Accenture. It is very clear from the auditor's most recent report in the fall that you have huge problems which continue with Accenture, both in terms of having a product that doesn't work, either for the ministry or the municipalities, but also a really serious situation where the ministry is going to continue to pay millions of dollars to this company because knowledge transfer has not occurred. What are you doing with Accenture to end this?

Ms Bouey: I would suggest that we do some kind of follow-up arrangement on that, because since that was not part of this and it is not really a regular consulting services contract in any case, I'm afraid I'm not prepared to answer the details of that. What I can say is as it has turned from a development project to more ongoing maintenance, we have taken steps to bring some of that work in and to develop and do the knowledge transfer with respect to that. But I don't have enough of the details to give you a full answer today.

Ms Martel: I'd appreciate that. I appreciate that you say it's a different kind of venture—maybe that's the best way to describe it—but the most important point is that there hasn't been knowledge transfer, and that was one of the key items the auditor identified with any of the other contracts. As far as I can tell or as far as I'm concerned, it's probably the biggest single problem you've got where that didn't happen and where taxpayers continue to pay this company because knowledge transfer hasn't taken place and because, frankly, the product doesn't work.

Ms Bouey: I think there are some well-thought-out reasons for why things are structured the way they are now. I would like the opportunity to get back to you on

that, though, rather than to try and answer that off the top of my head.

Ms Martel: OK. Thanks, Deputy.

The Vice-Chair: Thank you, Ms Martel. Does the government caucus have any questions?

Mr McDonald: We'll pass, Chair.

The Vice-Chair: The Liberal caucus?

Mr Duncan: I've been making notes throughout the day and I'm trying to come back to the consulting arrangements as well as the leasing arrangements of MFP, Management Board and the various ministries. This morning we talked about transparency in your opening testimony and the importance of accountability. I again want to come back notionally to the MFP contracts. Can you assure this committee of the Legislature that the leasing arrangements entered into across the various ministries did not contain provisions similar to those contained in the arrangements with the cities of Windsor, Toronto and Waterloo and a number of post-secondary institutions that I understand entered into similar arrangements? Can you give us that undertaking here today?

Ms Bouey: I have not had the opportunity to go through each and every one of them in huge and glowing detail, and before I give anybody any assurances on anything, I would always want to do that. However, I think it's fair to say that these arrangements were scrutinized by third parties and that we did take action to address the concerns. We have now moved beyond that point. We are no longer structuring the arrangements the way we originally did in the past. We've made improvements to those as we went. We now have a corporate vendor of record that is essentially structured on our terms.

Mr Duncan: If I might, I can tell you from testimony given at public inquiries and from a statement of claim filed by the city of Windsor in civil court that in fact many competent, well-qualified accountants and lawyers scrutinized these various agreements, and it turns out that the lease payments, the conditions of interest and so on, the so-called escalating clauses, got by many of them. More importantly, there are allegations of fraud and improper behaviour on the part of senior officials as well as elected officials. Given the magnitude of the number of contracts that had been entered into by the province of Ontario, it appears to me, and I can't say this with certainty, that Ontario was far and away a much larger client of MFP than the cities of Toronto, Windsor certainly or Waterloo. Given the testimony we're hearing, do you not think it appropriate that the terms of all of these contracts be released so they may be properly scrutinized by this Legislature to determine if in fact we got value for money?

Again, you've told us about what you've done going into the future, and I accept that. But I will remind you that the city of Toronto and others that have been subject to these contracts have also cleaned up their processes. The difference here appears to be that the government does not want to discuss those leases. There are many of them, as I understand it, according to testimony given by

the government, dating back to 1989, many of which you said earlier today are still in force.

Would it not be appropriate to release the details of those contracts so that they can have the same kind of scrutiny that other broader public sector institutions have had so that we can either get to the bottom of it from the province's perspective or give our taxpayers assurances that their interests were protected in ways which were different from virtually everyone else who has entered into these arrangements in the province of Ontario? You spoke about transparency this morning.

Ms Bouey: I understand that. I think transparency, as with the FOI legislation, has to be balanced off against areas of commercial sensitivity.

Ms West: Perhaps I can just comment with respect to the specific experience of the justice ministries. As Deputy Bouey noted, the justice ministries had entered into contracts with MFP even prior to the vendor-of-record process; actually, since 1993 in our case. Certainly as part of a review that was done last year—and we were before this committee last year as well—we did undertake to retain an independent expert adviser to review our contracts with MFP. That was done in 2001. That independent adviser confirmed to us that they were good contracts, well-negotiated, and that they did provide good value for money. We have given to this committee a copy of that report from the independent adviser—

Mr Duncan: So the police radios that were entered into by the province, which were very similar to the city of Windsor's, were subject to a much different contract?

Ms West: I don't believe that we used MFP for police radios. We did use MFP for some police—

Mr Duncan: Could you correct me, then? My understanding was that there were police radios involved.

Ms West: —computer-aided dispatch and records management systems.

Mr Duncan: Again, that was my recollection too: that it was similar in the case of the city of Windsor. I'm not certain about Toronto.

Ms West: I don't know if it was the same purpose, but certainly—

Mr Duncan: Could you provide me with a copy of that report, please? I know you have provided it to the committee.

Ms West: A copy of that report has been provided to this committee, and we can provide another copy if you like.

The Vice-Chair: Excuse me, I just asked research if they would look that up and provide it for us informally.

1410

Ms West: ONNY was the name of the adviser.

Mr Duncan: Did it address the question of interest payments and lease payments?

Ms West: They commented upon it and came to the conclusion it was good value for money. I should note for the committee, again, Deputy Bouey has raised the necessity for us to look at freedom of information legislation and comply with those strictures in terms of the

lease. We haven't released that report under freedom of information but we have released it to this committee.

Mr Duncan: Are you prepared to make that report public today?

Ms West: Again, what I have to look at is how freedom of information legislation does restrict me or affect that, but certainly I'll give another copy to this committee.

The Vice-Chair: Mr Patten, you have about three and a half minutes.

Mr Patten: My question is very brief. I'm not going to get into the detail of things, because we've gone through it. You've read the auditor's report, Deputy Bouey. You have a very good reputation for being a strong deputy. So what I'm going to say is generic to the organization of government at this point.

We can see that obviously the government was embarrassed, the minister was embarrassed and probably people in Management Board and various ministries were embarrassed. Quite frankly, I've been asked in my riding on more than one occasion about what the hell is going on. Well, I'm not the government, but I can concur that it's a source of something.

Having been a former minister of government services, having worked very closely with Management Board—at the time, this was a highly respected ministry. Something has gone wrong. I know you've only been there for a short period of time, but for a period of five years or so, the loss of respect, in my opinion, by some of the ministries, perhaps aided by Management Board itself not observing its own directives—there was an undercutting of authority, in my opinion, both moral authority and organizational authority.

I'm looking at this from the point of view of organizational development. I empathize with you in terms of your challenge—and it is a big challenge—but I believe the message has to get through, not just at the ministerial level—because bureaucrats hear that all the time and they can filter out what they want—but I think at the highest levels, the deputy and the minister levels, that, “We're serious about this, and when there are contraventions of directives, there will be repercussions if they are not observed.” I see that you've been quite specific with, “Here's our response,” and on paper everything looks great, but I suggest that there has to be some sense of passion in this, to say, “Hey, this just ain't good enough.”

I suspect for personal pride—we have \$3 million worth of salaries here today. Quite frankly, when I look at the directives and I remember when I was there, they're not that different over time. Even some of the levels of signing authority are the same. That was 12, 13, 14 years ago. But it's how urgently or how judiciously those are observed and who pounces on this and notifies the ministry, saying, “Look, we've got a line on this. You didn't report and we want you to report.” In other words, I believe the authority that Management Board has it's either not using or hasn't used—I won't say “now,” but I'll say for the period of time in which we've had this

report from the auditor. There were numerous violations, and I won't dwell on that.

I just want to make the point, seriously, that I think there needs to be a sense of passion about this in terms of personal pride in running the ministry; that we mean business; and a bit more of a hard-nosed, but understanding and fair, approach in terms of, “A directive is a directive. It's not a guideline that you can choose to ignore if somehow it seems to be apparently convenient.”

The Vice-Chair: I take it that we may be nearing the conclusion of the questions and comments. Any more, Ms Martel? Government caucus? Liberal caucus?

I want to thank you very much for your attendance today and for your patience and understanding in answering questions. We appreciate everyone's participation.

I'm asking the indulgence of the committee until everyone clears the room. There is I think one more matter to be dealt with.

Mrs Munro: Are we adjourned?

The Vice-Chair: No. I haven't announced adjournment yet. I just asked for a few minutes while they cleared the room.

We can deal with that now. It is kind of quietening down. It's my understanding, at least I'll direct my question that way, that there may be a motion to be introduced.

Mr Patten: Yes. People have received this.

I move that the committee request the following information of Management Board Secretariat or Management Board: the complete contracts between each ministry of the government, Management Board and any agency of the province and MFP Financial, and that specifically all information with respect to (1) lease payments, (2) software licence price, (3) purchase option price, (4) upgrade price, and (5) interest rate calculations be provided to this committee immediately.

The Vice-Chair: The motion has been made. Is there any discussion?

Hon Doug Galt (Minister without Portfolio): Chair, could we recess for 10 minutes?

The Vice-Chair: Yes, but we'll return at, let's say, 25 after.

Hon Mr Galt: How about—

The Vice-Chair: Well, 2:30. The committee will return at 2:30.

The committee recessed from 1417 to 1430.

The Vice-Chair: The committee is back in session. We have a motion on the floor that has been read and moved. I then ask for any discussion.

Mr Duncan: Mr Chair, we put this motion to begin to get at information that we believe is vital to the public interest in Ontario. The heart of our responsibility as members is to hold governments accountable at all levels for the way they spend our tax dollars. The MFP situation in Toronto, Windsor, Waterloo and across this province, operating as consultants and providers of leasing financial arrangements, has proven to be a very difficult issue where professional reputations are at stake, where the nature of the relationship between MFP and the leasing

public agency has been called into question, is the subject of two inquiries, at least one civil suit going on at this time, and it has been filed at this time in Ontario.

Yet Ontario, which appears to be the largest customer of MFP, as the government indicated earlier today, at least since 1989, refuses to release the details of the contracts that the government of Ontario has entered into with MFP, ostensibly on the notion that these contracts protect some kind of commercial interest. We reject that. We think it's part of a deliberate plan to keep that information from public scrutiny. We believe the details of those agreements, as entered into by various ministries, including the Management Board of Cabinet, Solicitor General and the Ministry of Natural Resources, are essential to our role as members in understanding how the government is spending our money.

I remind you, Mr Chair, that in the case of MFP and the lease arrangements between MFP and the city of Windsor, the city of Toronto and Waterloo, what's at stake, what's at issue, is the nature of the interest payment calculations and how those calculations can escalate over time.

We received no assurances today from officials here on behalf of the ministries. Indeed, neither minister was here to answer the questions. So if they can't answer the questions, we need to keep asking them, because the issues are serious. In the case of Windsor and Toronto, the costs associated with lease values in much smaller amounts than those associated with Queen's Park are believed to have doubled. These calculations have gotten past slews of lawyers and accountants, all of whom I believe acted in good faith, and I believe our public servants have acted in good faith. I believe it's incumbent on us as legislators to fulfill the key responsibility, in my view, of MPs, and MPPs in the case of the provincial Legislature, to get to accountability. The city of Toronto has gotten to accountability through an inquiry; Waterloo, similar. The city of Windsor has chosen to go the civil court route to try to get true accountability and a true measurement of these issues.

What struck me today in the testimony that was given here wasn't what was answered but what wasn't answered, and the essential issues remain outstanding. It's unfortunate that those answers weren't forthcoming. I believe it's incumbent on this committee to seek the information we have requested. That's why we have asked for this motion to be put. I believe we ought to scrutinize that information to see if in fact the arrangements between Ontario and MFP are different than Toronto or Waterloo or Windsor. Today the most senior public servants have not ruled that out. Their answers were, in my view, very unclear with respect to those important issues. We need to begin to explore this issue in much greater detail than we have. There were contradictions in testimony here between that which was given in the House, along with that which has been reported in other public inquiries.

I believe, as members of the Legislature and as members of this committee, the public accounts committee,

we have an obligation to seek this information and to look at it. My hope is that my concerns will not be borne out; my fear is that they will. In our failure to at least look or to demand that information, in my view, we will be failing the taxpayers of this province in trying to determine if in fact Ontario has arrangements that are similar to those that are subject to scrutiny and lawsuits in other jurisdictions.

The Vice-Chair: Any further discussion?

Mrs Munro: I have a couple of comments with regard to this. One of the things I'm struck by in reading this is the fact that there are no dates attached to this. We know that this vendor has done business with the provincial government since 1989. We know from that that there have been numerous opportunities—in fact, reference was made to a document that was presented to this committee some time ago with regard to this issue. We do know that over the course of the last, well, more than 12 years that obviously through this process there would have been several opportunities for the kind of scrutiny the member opposite refers to. We heard this afternoon, as a specific example, the justice cluster, where information was provided to us about the way in which the kind of scrutiny and third party analysis takes place. So I feel that to suggest there hasn't been scrutiny over a period of time doesn't stand up to the kind of information we have heard.

Secondly, I would suggest that in the specific requests that were made, the deputy was clear in referring to the obligation to provide information within the restraints provided by the freedom of information legislation.

On the basis of the fact that this is an open-ended request, on the basis that we have heard of this committee and other third party opportunities that have been made available in this process of the vendor in question, I will not be supporting this resolution.

The Vice-Chair: Further discussion?

Ms Martel: With respect to the concern that this is an open-ended request, the motion can be amended by the member or by anyone else to limit the information so that we're not going back a number of years and putting an onerous burden on staff in any one ministry to come up with the information. I don't think that's an issue at all, because we can clearly amend it to reflect a particular time period to limit or narrow the scope of the information that we're requesting.

Secondly, despite the provisions of the Freedom of Information and Protection of Privacy Act, I tend to find that the commercial section is used rather extensively to block information from members with respect to information that members demand through FOI. If there was really nothing here that people were worried about or didn't want to come into the public domain, I think the ministry should and would be more than willing to release some of the information that's been requested.

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Clearly there is a perception that there may be a problem with these contracts. Clearly we know that the government of Ontario would probably be the single

biggest client that MFP would have. And clearly if we want to tell the public straight up that everything that was done here with respect to this company was above-board and there is no cause for concern, we would be doing the utmost, and so would the ministry, to provide the information that has been requested.

I support the recommendation. I think it can be amended. I think it's really incumbent upon the government to provide the details, to make it clear to the public that there is no problem, at least with respect to the government of Ontario and these contracts.

The Vice-Chair: Just by way of informing the committee, there have been two references in discussion on this motion with reference to freedom of information. It would appear by the standing orders that the powers of the committee go beyond that. Under section 108(b), I would quote, "Except when the House otherwise orders, each committee shall have power to send for persons, papers and things." I just point that out for the information of the committee.

Mr Patten: I'd like to ask Ms Munro if she had a suggested time frame, because I would be prepared to amend the motion.

Mrs Munro: I considered that issue, and at this point I don't have a specific one to offer you, simply because I can think of some of the problems in terms of how narrow the time frame is or how long it is. So I think it's something at this point that quite frankly, in the short period of time we've been looking at this, I haven't given the kind of consideration I would want to give to be able to provide you with an answer.

The Vice-Chair: Any further discussion?

Mr Patten: Yes, because I'd like to deal with this, if you don't mind. Is there a way to phrase this so that—and I can see your concern. Quite frankly, I don't care if we ask it going all the way back to 1988. It doesn't bother me. That's fine. You have all three parties involved in dealing with this particular institution, and that's fine with me. If that's there, then that's OK.

The Vice-Chair: Any further discussion? There being none—

Mr Patten: Well, I'd like to make an amendment to add to this motion, following the last portion, after "interest rate calculation" on the list, "from the year 1988

to the present, this information be provided to this committee immediately."

The Vice-Chair: If I could just read that, to add "from the year 1988 to the present," after the words "interest rate calculation" and before "to be provided to this committee immediately."

All right, that's the amendment. Any discussion on the amendment? I'll ask the question. All those in favour of the amendment?

Mr Patten: A recorded vote.

Ayes

Martel, Patten.

Nays

Galt, Hastings, McDonald, Munro.

The Vice-Chair: The amendment is defeated.

We're back to the main motion. Any further discussion?

Mr Patten: Recorded vote.

Ayes

Martel, Patten.

Nays

Galt, Hastings, McDonald, Munro.

The Vice-Chair: The motion is defeated.

Is there any further business for the committee today that's not on the agenda? If not, I'd just remind the members that we will convene at 9:30 am on Wednesday, February 12, for consideration of the 2002 annual report of the Provincial Auditor, that being consideration of section 3.11, training division, Ministry of Training, Colleges and Universities.

Thank you very much for your co-operation today, and this committee stands adjourned.

The committee adjourned at 1445.

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Mr Phil Hassen, deputy minister, Ministry of Health and Long-Term Care
Mr Neil Sentance, director, procurement policy and IT procurement branch,
Management Board Secretariat
Ms Lorelle Taylor, chief information officer, human services cluster, I&IT,
Ministry of Health and Long-Term Care

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Mr John Hastings (Etobicoke North / -Nord PC)

Ms Shelley Martel (Nickel Belt ND)

Mr AL McDonald (Nipissing PC)

Mr Richard Patten (Ottawa Centre / -Centre L)

Substitutions / Membres remplaçants

Mr Garfield Dunlop (Simcoe North / -Nord PC)

Mr Doug Galt (Northumberland PC)

Mrs Julia Munro (York North / -Nord PC)

Also taking part / Autres participants et participantes

Mr Dwight Duncan (Windsor-St Clair L)

Mr Erik Peters, Provincial Auditor

Mr Andrew Cheung, Office of the Provincial Auditor

Clerk / Greffière

Ms Anne Stokes

Staff / Personnel

Mr Ray McClellan, research officer,
Research and Information Services