

**REPORT TO THE STATE SERVICES COMMISSIONER**

**INQUIRY INTO THE PROCUREMENT AND CONTRACTING ARRANGEMENTS  
BETWEEN THE STATE SERVICES COMMISSION AND VOCO LIMITED AND THE  
PERFORMANCE OF THE COMMISSION IN RELATION TO THOSE  
ARRANGEMENTS**

Wellington  
17 March 2009

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## **Introduction and acknowledgements**

On 16 December 2008 I was contracted by the State Services Commissioner to conduct an independent inquiry into the procurement and contracting arrangements between the State Services Commission and Voco Limited and the performance of the Commission in relation to those arrangements.

The Terms of Reference for the inquiry are attached at Annex 1. In summary, they required me to look into the way any potential conflicts of interest were managed; whether the procurement and contracting arrangements were in accordance with the rules, policies and expectations in force at the time; how well managers handled the contracting arrangements; and the levels of support provided by the Commission.

The inquiry took place from 4 January to 11 February 2009. It involved one or more meetings with 27 people (see Annex 2 for a list of people interviewed) and examining a large number of documents (key documents are listed at Annex 3).

I wish to record my thanks to all interviewees for giving so freely of their time and views. Without exception, I was accorded full cooperation by all with whom I met.

I owe a special debt of gratitude to the State Services Commission's Acting Chief Legal Adviser, Gordon Davis, for his unstinting help throughout the inquiry. A number of SSC officers went out of their way to ensure that I had access to all relevant records. I was particularly appreciative of the work done by Toni Vincent, Briony Willing and Kim Wood at different stages of the inquiry.

Neil Walter  
WELLINGTON  
17 March 2009

## Glossary

AOG	All of Government
AOG(Ops)	All of Government Operations Unit
BDU	Business Development and Uptake Unit
GSN	Government Shared Network
GSN Project	The implementation phase of the GSN initiative, which ran from mid-2005 to the declaration of "Project Exit" in September 2007
GSN Programme	The operational phase of the project, which began with the declaration of "Project Exit" in September 2007.
GSSN	Government Shared Services Network (a precursor to the GSN)
ICT	Information and Communication Technologies
IQA	Independent Quality Assurance
LAN	Local Area Network
Project team	The consultants (mainly from Voco) and Commission staff who worked on the GSN project
PwC	PricewaterhouseCoopers
RFP	Request for Proposals
SMT	Senior Management Team
SSC	State Services Commission (often referred to as "the Commission")
Voco	Voco Limited, previously known as I-Solutions
WAN	Wide Area Network

### **Note:**

- 1 All prices and costs quoted in this report are exclusive of GST.

## Executive Summary and Findings

- 1 Over the period November 2004 to February 2009 Voco Limited (Voco) was contracted by the State Services Commission to provide a range of technical and project management services for the Government Shared Network (GSN) project. As at 20 February 2009 the total cost of these services, provided under a series of contracts, variations and extensions, stood at just under \$7.5 million. Voco is currently scheduled to complete its GSN work in May 2009. Ten additional contracts for non GSN-related work, worth just under \$160,000, were also entered into over that period between the Commission and Voco.
- 2 In late 2008 it was reported in the news media that questions had been raised about the Commission's handling of its contractual arrangements with Voco, including the way in which possible conflicts of interest had been managed. Other reported criticisms were that Voco had been overpaid for its work and that variations and extensions of its contracts should have gone out to tender.
- 3 A number of reviews have been undertaken of the GSN project. The Minister of State Services confirmed in an announcement on 3 February 2009 that the GSN initiative was no longer financially sustainable and is being discontinued.
- 4 This inquiry deals specifically with the contractual arrangements between the Commission and Voco; how any potential conflicts of interest were managed; whether the procurement and contracting arrangements with Voco were in accordance with the rules, policies and expectations in force at the time; how well managers handled the contract arrangements; and the adequacy of the Commission's support and internal control systems.
- 5 On the basis of the interviews I have conducted and the documentation I have examined, I am satisfied that there was no deliberate wrongdoing on the part of either Commission staff or Voco employees in relation to these contracts. On the other hand, the inquiry has revealed: one instance of a situation involving a prior professional association that was not well managed; a number of irregularities in the way the contracts were let, extended and varied; issues around the management of the contracts; and some weaknesses in the Commission's support and internal control systems.
- 6 This inquiry has for obvious reasons focussed on shortcomings in the management of the contractual arrangements with Voco. In the interests of balance and fairness, I would ask readers of this report to bear in mind not just that this inquiry was conducted with the enormous advantage of hindsight but that Commission staff involved in the GSN undertaking faced a huge challenge in getting this complex, "first of a kind" project off the ground. The project was, in effect, aimed at creating a whole new telecommunications network for the public sector – an extremely ambitious undertaking for a small, policy-oriented agency like the Commission. It is hardly surprising that a number of hard lessons were learned from it. Not only did the design of the project impose significant risks and challenges, but a number of difficulties that arose during the project's trajectory (for example, the increased competitiveness of major telecommunications companies and the delays and technical problems caused by key suppliers not living up to their obligations) were outside the control of the project managers.
- 7 I have seen compelling evidence of the hard work and commitment of Commission staff who worked on the project. For the most part their work was of a high professional standard - and in many cases they went far beyond the call of duty in their efforts to work

through the multitude of difficulties that surrounded the project. Nothing in this report should be held to call into question either the good faith or the hard work of the staff concerned.

- 8 My findings under each of these headings (with a more detailed explanation of the thinking behind them in the relevant sections of the report) are as follows:

### ***Conflicts of Interests***

- 9 **There was one situation that was not managed either well or in accordance with the rules and policies in force at the time.** The Deputy Commissioner (ICT) failed to declare an earlier association with Voco at the time that the initial (design) contract was being let in November 2004. Although the Commission did not maintain a formal register of interests, this failure to advise the State Services Commissioner of the earlier association and discuss with him how to manage it put him in breach of the Commission's Code of Conduct. Having examined the relevant papers and spoken with the people involved, I am satisfied that no pecuniary interest was involved; that the lapse was inadvertent rather than deliberate; and that the Deputy Commissioner (ICT)'s prior connections with Voco would not have influenced the decisions taken on either the initial contract or subsequent contracts and extensions. It does however constitute a technical breach of the guidelines and policies in force at the time.

### ***Handling of Procurement and Contract Arrangements***

- 10 There were a number of **irregularities and oversights in the way Voco contracts were let, extended and varied.** To some extent these can be explained by the tensions between the project's commercial and operational imperatives and the Commission's standard operating procedures. Nevertheless - and even acknowledging the pressures on under-resourced managers and that the lapses were generally procedural in nature and unlikely to have had any significant impact on overall project outcomes – the irregularities reflect poorly on the Commission's project management team.<sup>1</sup> Whether or not they received adequate assistance from the Commission's support units, it was ultimately their responsibility to ensure that correct procedures were followed and proper records kept. A desire to move the project along rather than spend scarce time doing things "by the book" – particularly when the book in question was never designed for a large and complex commercial project – while it might explain why the short-cuts were taken on contracts, is no real excuse.
- 11 It is to my mind questionable whether **the closed tender process used to award the initial (design phase) contract in December 2004 was the most appropriate way to go.** On the one hand, the sum involved was relatively small (although the initial estimate of \$200,000 later increased to over \$700,000) and the impending departure overseas of two key players and the upcoming Christmas break argued for quick action. While the process did comply with the rules in force at the time (a closed tender approach was allowed in circumstances where only a small number of firms had the requisite capability) it might in retrospect have been wiser to have followed an open tender process - both because of the prior associations described above and because of the evident importance of getting the overall project design right at the outset.
- 12 **The decision in October 2005 to award the first major implementation contract to Voco without going through an open tender process was both unwise and a**

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<sup>1</sup> The term "Commission's project management team" is normally used to denote the Deputy Commissioner (ICT) as Project Sponsor and the Project Owner.

**technical breach of the Commission's Consultants Policy in force at the time.** This was by any standards a large contract as well as a major step change in the project – it marked the move from design to implementation. While the arguments for a non-contestable approach were set out clearly in the Project Owner's submission to the Deputy Commissioner (ICT), in all the circumstances an open tender process would have been both a more prudent and the correct course to follow.

- 13 It is not clear to me that **the cumulative effect of the many extensions and variations to Voco's initial contracts were fully taken into account** by the Commission's project management team. (A basic rule of public sector procurement is that account must be taken of the "whole of life" costs of any project.) Delays and cost overruns are a significant and unfortunate feature of the GSN project. While there are many reasons for this – and to a large extent they lay outside the project's control - more careful planning at the outset, coupled with a more measured and better documented approach to contract extensions and variations, might have helped.
- 14 For the record, I do not attribute any responsibility to Voco for any of the slip-ups identified above. They had every right to expect, as I believe they did, that the Commission would have followed the correct procedures in letting and extending the contracts.

### ***Quality of Management Decisions***

- 15 With the advantage of hindsight it can be seen that a serious weakness of the GSN project which complicated the decision-making that went into Voco's role was the inadequacy of the **GSN governance arrangements** - and in particular the lack of clarity around the roles and responsibilities of the three oversight bodies. Much effort went into the development of a governance structure – and many people put a lot of work into the supervision of the project – but in the final analysis the structure did not work well. Given the scope, importance and complexity of the GSN project, a single governance body charged with full oversight responsibility and working direct to the State Service Commissioner, would have seemed preferable. By full oversight responsibility I mean setting and reviewing the strategic direction for the project, keeping an eye on changes in the environment that might affect the ongoing viability of the project and monitoring the performance of the project management team.
- 16 The **Commission's internal management structure** for the GSN project also posed a problem in terms of decision-making on Voco's contracts. Perhaps the most serious weakness was that the Deputy Commissioner (ICT) and Project Owner were apparently expected to discharge their responsibilities to the GSN project within some 5% and 15-20% respectively of their time. This was clearly inadequate. To be fair, an attempt was made in early 2007 to employ a full-time programme manager. It was however not until early 2008 that this occurred. Moreover the matrix management arrangement that came into effect on the declaration of Project Exit seemed to require very high maintenance. Again, a single line of accountability from a full-time, Commission-employed GSN project manager to the Deputy Commissioner might have been a better option.
- 17 There were also shortcomings in the arrangements made within the Commission to **provide the project with specialist support** in such areas as financial management, legal advice, documents management and office accommodation. These weaknesses put additional pressure on the Commission's project management team and made it more difficult for them to discharge their responsibilities. This is dealt with more fully below.

- 18 A weakness in the GSN project as a whole as well as in the contractual arrangements with Voco was the seeming absence of any **independent mechanism for reassessing the status and prospects of the project at key milestones**. Rigorous peer reviews of the kind currently being trialled under the “Gateway Process” might have helped, particularly at the point at which the more competitive approach of major telecommunications companies and repeated delivery problems were causing client agencies to lose interest in the GSN. Certainly there is evidence that the way ahead was constantly under review by the project team. There was in addition an independent quality assurance (IQA) process run by Hexad, regular monitoring of the project by the Treasury and Audit New Zealand and the deliberations of the GSN Steering Group, the All-of-Government Advisory Board and the Commission’s Senior Management Team. A comprehensive “Performance Measurement and Reporting Framework” and monthly project status reports were also in place. But despite all these measures, the key risks and problems facing the project never seemed to be highlighted or analysed to the extent they should have been – or to get quite the attention or action they required.
- 19 There is a question in my mind about the wide-ranging nature of the **responsibilities given to Voco** under the October 2005 contract and subsequent variations and extensions. It was inevitable once the decision was taken to house the GSN project in the Commission that a firm such as Voco would need to be contracted in to provide the project team with the necessary technical and project management skills. I am told that the Commission’s management team rated Voco’s performance highly. But I am left with misgivings about the decision to give one firm so much of a say in the design and management of a project to which they were also a major supplier of services. That, together with the decision to use Voco to represent the Commission in its dealings with client agencies, would have added considerably to the already-heavy responsibilities of the Project Owner for contract monitoring and supervision.
- 20 Another feature of the Voco contracts that must have placed real pressure on the Project Owner was that they were **time and materials-based**. Voco’s invoices were normally certified for payment by the Project Owner. He stated to me that he stayed close to the project at all times, kept a careful eye on Voco’s performance and did not authorise payment until he was fully satisfied that they had met their contractual responsibilities. There was however little documentary evidence of just how the firm’s performance against each contract had been assessed. While I can understand the Project Owner’s desire to get on with the project rather than spend time filling in forms and documenting discussions and decisions, I have to note that the absence of an audit trail makes it difficult to assess either Voco’s performance or his own management of the contracts. And while the available documentation indicates that Voco’s costs were generally in line with market rates - and benchmarking exercises were conducted from time to time - it is not clear to me that the rates were always – in the words of the Controller and Auditor-General – “actively negotiated” to the extent they might have been.
- 21 Questions were raised with me about the **decision to declare “Project Exit”** in September 2007, when not all the key products were ready to be rolled out and the project was still bedevilled by technical problems and supplier delays. On the one hand there were strong arguments for moving the project from an implementation into an operational phase – for example, the need to show agencies something for their money, an interest in reducing run rates and the desire to move a major (non-Voco) supplier on to a new set of contractual arrangements. On the other hand, there were a number of issues with the reliability of the products rolled out as well as a number of products still in the pipeline. This was clearly a trade-off situation, and the records show that it was debated

strongly at both management and governance level. Perhaps it was one of those situations in which there is no good answer and you take what seems to be the least bad option.

- 22 Finally, I note that this section deals with the quality of the Commission's decision making on the GSN initiative and its handling of the Voco contracts. I have not attempted to assess the performance of Voco or any other contractor or supplier involved in the project.

### ***The Commission's Support Systems and Controls***

- 23 As indicated above, it was always going to be a stretch for the Commission's specialist **support units** (primarily the Finance and Legal sections, Records and Office Services) to accommodate the demands of this large, technology-driven and heavily commercial project. Difficulties and frustrations were experienced on both sides of the interfaces. In retrospect, a stronger effort should have been made to assess the project's support needs at the outset, to adjust resourcing levels in the support units and to establish with greater clarity just how the relationships should work. Alternatively, or additionally, more specialist support should have been built into the project team.
- 24 The Commission's **internal control systems** had difficulty coping with the advent of the GSN project. The Commission's arrangements for contract management had traditionally been dispersed over a number of units – an arrangement that might have been adequate for its mainstream work but was not well suited to the needs of the GSN project. Much the same could be said to apply to the areas of financial and risk management. I was encouraged to see that the Commission is now moving strongly on the establishment of an independently-chaired **Risk and Assurance Committee**, a strengthened **risk management register**, a centralised and strengthened **contract management system** and an **internal audit capability**. Whether or not another project of this kind is ever housed in the Commission - and at this juncture that seems unlikely - these moves stand to be of considerable benefit to the Commission.

## Background

### ***The SSC and information technology***

- 1 The State Services Commission first became involved in IT planning for the public sector in 1999, when a Chief Executives Group on Information Management and Technology recommended that it develop a whole-of-government strategy around the use of information technology in government agencies.
- 2 An E-Government Unit was established in the Commission in 2000. It was renamed the Information and Communication Technologies Branch (ICT) in 2005. In addition to its work on standards and policies for IT in the public sector it undertook a number of major IT projects. A comprehensive “e-government” strategy, first published in 2001, was revised and reissued in 2003 and 2006. Within this strategy the ICT Branch developed a range of policies, standards, products and services for public sector agencies. The most significant projects have been:
  - the all-of-government portal and supporting metadata and search services
  - the e-government interoperability framework (e-GIF)
  - a secure electronic environment (SEEMail)
  - the Government Shared Network (GSN) initiative
  - the public sector intranet and shared workspace
  - the authentication programme, incorporating the government logon service and identity management service
  - web guidelines and moderation projects
  - an electronic procurement and supply system, including software licensing
  - standards, policies, research and reference material.
- 3 In July 2008 the ICT Branch’s roles were separated into a leadership role – in effect, the Government Chief Information Officer (GCIO) – and an organisation to run shared services operations – Government Technology Services (GTS). The latter is to transfer to the Department of Internal Affairs in July 2009.

### ***The genesis of the GSN project***

- 4 A study published in 2004 argued for a consolidation and standardisation of ICT infrastructure among public sector agencies. It noted that wide area networks (WANs) had been successfully consolidated by a number of overseas governments and global corporates. It identified three major potential benefits for New Zealand in a Government Shared Services Network(GSSN):
  - improved standards of security
  - cost efficiency gains for agencies
  - improved collaboration among government agencies.
- 5 The study noted that complex issues of public management as well as technology were involved. It concluded that wider discussions should be held with agencies to establish how these benefits could best be realised in the New Zealand setting.

### ***The Government Shared Network (GSN) Project***

- 6 In 2004 Cabinet agreed that a feasibility study should be undertaken into the consolidation and rationalisation of the public sector ICT infrastructure. In brief, it was to be a high-speed, open access, secure broadband network infrastructure that would facilitate inter-agency communication, collaboration and information-sharing as well as give the public better access to government services. It was seen as contributing to the government's strategic objectives for the State Services as well as promoting the Commission's key development goals.
- 7 Key products to be delivered to participating agencies – some of which were developed after the start of the project - included:
  - core.connect (a core network to facilitate the transfer of information among agencies)
  - internet.connect (connecting agencies to the internet and to private sector organisations in a secure fashion)
  - office.connect (connecting agency head offices with branch offices and data centres).
- 8 The GSN project was formally approved by Cabinet in June 2005. An initial drawdown funding facility was set at \$14 million. This figure was increased to \$23 million in July 2006. Further smaller sums were allocated to the project's drawdown facility in 2007/08. Total expenditure as at February 2009 stood at around \$32 million.
- 9 Although problems were still being experienced with the delivery of some of the services, it was decided to declare "Project Exit" in September 2007. At that point two of the main products were rolled out to participating agencies. The Commission's Business Development and Uptake Unit (BDU) had already started to take on responsibility for managing client agency engagement and the All-of-Government Operations Unit (AOG (Ops)) became formally responsible for service delivery from October 2007. Work continued on GSN services that were not yet ready to be taken up by agencies, but as at February 2009 the project was still some way short of fully delivering on its objectives.
- 10 In the meantime it had become clear by mid-2008 that take-up by public sector agencies was well short of expectations and that the projected gap between expenditure and revenue, at some \$700,000 per month, was not financially sustainable. Following consideration of a number of options, it was announced on 3 February 2009 that the GSN project would be discontinued and participating agencies would be moved to a new provider in the private sector.

### ***Voco's involvement in the GSN project***

- 11 A detailed account of Voco's contractual dealings with the Commission is given in Annex 5.
- 12 In summary:
  - 12.1 In December 2004 Voco were contracted by the SSC to **design and plan** the GSN project. This work was expected to cost up to \$200,000 and had a completion date of 30 June 2005. The completion date for the design phase was subsequently extended to 31 August and the contract price increased to a maximum of \$700,000.
  - 12.2 In October 2005 the Commission contracted Voco to **manage the overall implementation** of the GSN project, including running the Project Management

Office, leading several of the workstreams, managing agency engagement and coordinating the work of service suppliers. The payment for this phase of work was set at a maximum of \$2,300,000 and the completion date was set at 31 August 2006.

- 12.3 A **number of extensions and variations** to the main contract (22 in all) were then entered into, starting in February 2006. The cumulative effect of these changes was to extend the GSN arrangements between the SSC and Voco through to 28 February 2009. Taking into account their involvement in the operational phase of GSN (since “Project Exit” was declared in September 2007), Voco’s GSN work had cost just under \$7.5 million at the time of this inquiry. (Recently the Commission exercised their right to a three month extension for transition purposes, which now takes Voco’s engagement through to May 2009.)
- 12.4 During this period ten additional contracts were entered into between the SSC and Voco for work on non-GSN related projects. The total cost of these contracts was just under \$160,000.

## Conflicts of interest

### Background

- 13 The terms of reference of the inquiry required me to:
- “investigate whether there were any actual or potential conflicts of interest, or reasonable perceptions of conflicts of interest, arising out of the procurement and contracting of Voco’s services and, if so, whether these were appropriately managed”.*
- 14 When procuring or contracting goods or services, public servants are required to avoid situations which might compromise their integrity or otherwise lead to conflicts of interest. The specific guidance on conflicts of interest is expressed as follows in the “Public Service Code of Conduct” which applied to Commission employees throughout most of the GSN project (it was replaced in late 2007 by a revised “Code of Conduct for the State Services”):
- 14.1 “Public servants should not only avoid circumstances in which their personal interests conflict with the interests of the department or Minister, but should also avoid those circumstances in which there could be the appearance of such conflict.”
- 14.2 “The public must have no basis on which to believe that decisions are made or policies are applied unevenly. Public servants must observe the principles of fairness and impartiality in all aspects of their work. For example, no individual or organisation with which a public servant is involved may be given preferential treatment.....over any other individual or organisation.”
- 14.3 “Public servants should inform their Chief Executive where any actual or potential conflict of interest arises that impairs the full, effective and impartial discharge of their duties.”
- 14.4 “Public servants must not.....solicit or accept gifts, rewards or benefits which might compromise, or be seen to compromise, their integrity and the integrity of their department and the public service.”
- 15 These injunctions were reinforced in the guide “Procurement: A Statement of Good Practice” issued by the Controller and Auditor-General in 2001: (More specific guidelines are contained in the Controller and Auditor-General’s report “Managing Conflicts of Interest: Guidance for Public Entities”, but this was issued only in mid 2007.)
- 16 The “Statement of Good Practice” stipulates that a public entity should require its employees to declare any personal interest which may affect, or could be perceived to affect, their impartiality in any aspect of their work.

### Comment

- 17 One situation that has come to my attention relates to prior associations the Deputy Commissioner (ICT) had with Voco prior to his joining the Commission.
- 18 In the early 1980s the Deputy Commissioner (ICT) employed a person who subsequently became a Voco Director. In the 1990s he worked in the same field – although in different cities – as two people who subsequently were employed by Voco. While neither of these connections is significant, in 2003/04 the Deputy Commissioner (ICT) worked for Voco for a few months on contract – once as Programme Manager and once to perform a quality assurance role.

- 19 While there was no pecuniary interest involved it is a situation that could have given rise to perceptions of uneven treatment at the point at which decisions were taken on Voco's involvement in the GSN project.
- 20 Although the Commission had no formal process in place for the registration of interests such as these, it could reasonably have expected the Deputy Commissioner (ICT) to declare this prior association with Voco and discuss with his Chief Executive how it should be managed.
- 21 The highest standards of compliance with the Code of Conduct and the Controller and Auditor-General's Guidelines are expected of senior managers in the Public Service, and this lapse on the part of the Deputy Commissioner (ICT) is regrettable. The oversight is not helped by the manner in which the Commission/Voco contracts were subsequently let. In this exercise, as in other areas of his work, the Deputy Commissioner (ICT) needed to be seen to be absolutely impartial in his decision making.
- 22 I do not believe that the Deputy Commissioner (ICT) allowed his prior association with Voco to influence his judgement on these contracts in any way. The initial choice of Voco was recommended by an independent panel which conducted a thorough assessment of the two tenders finally submitted. The Deputy Commissioner (ICT) has made a point throughout his employment by the Commission of formally registering, at quarterly intervals, any gifts, hospitality and entertainment he has received. Having joined the Public Service only in 2004, it is perhaps understandable that he was not fully familiar with the requirements of the Code of Conduct at the time that the GSN project was getting underway.
- 23 And it is worth noting – bearing out the Controller and Auditor-General's comment that in a small country like New Zealand, potential or perceived conflicts of interest are inevitable – that the Deputy Commissioner (ICT) had also, in the years preceding his appointment in the Commission, done work for the second firm to submit a tender for the GSN design phase.
- 24 I looked into the question of hospitality and entertainment extended by Voco to the Deputy Commissioner (ICT) and the Project Owner. I am satisfied that there was no inappropriate or excessive hospitality provided by Voco and that all social and out-of-work contacts between Voco and Commission staff fell within the scope of what is considered normal and acceptable in the public sector.
- 25 I also looked into a small number of other cases where it was suggested to me - or it could have been perceived, based on my reading of the documents – that a real or perceived conflict of interest or instance of uneven treatment was involved. I found none that required comment in this report.

### ***Finding***

- 26 **There was one situation that was not managed either well or in accordance with the rules and policies in force at the time. The Deputy Commissioner (ICT) failed to declare an earlier association with Voco at the time that the initial (design) GSN contract was being let in November 2004. Although the Commission did not maintain a formal register of interests, this failure to advise the State Services Commissioner of the earlier association and discuss with him how to manage it put him in breach of the Commission's Code of Conduct. Having examined the relevant papers and spoken with the people involved, I am satisfied that no pecuniary interest was involved; that the lapse was inadvertent rather than deliberate; and that the Deputy Commissioner (ICT)'s prior connections with Voco would not have**

**influenced the decisions taken on either the initial contract or subsequent contracts and extensions. It does however constitute a technical breach of the guidelines and policies in force at the time.**

## Handling of procurement and contracting arrangements

### **Background**

- 27 The terms of reference required me to
- “investigate whether the SSC’s procurement and contracting arrangements (including contract variations) with Voco were undertaken in accordance with the rules, policies and expectations that applied at the relevant times to those arrangements”.*
- 28 The question of compliance with the relevant rules and policies is relatively straightforward, albeit complicated slightly by the fact that the rules changed a number of times in the course of the project.
- 29 The key rules are summarised in Annex 6. They come from the following sources:
- the Controller and Auditor-General (the 2001 document “Procurement: A Statement of Good Practice”)
  - the Ministry of Economic Development (“Policy Guide for Purchasers”, effective from July 2002 and “Mandatory Rules for Government Departments”, effective from May 2006)
  - the State Services Commission (“Consultants Policy”, effective from May 2004; “Consultants Guidelines”, effective from May 2006; and “Procurement Policy”, effective from November 2006)
  - Treasury/SSC “Guidelines for Managing and Monitoring Major IT Projects”, effective from August 2001
  - SSC delegation policies (as revised in May 2004, August 2004, August 2005 and July 2007).
- 30 In addition, the Controller and Auditor-General’s 2005 report on the Ministry of Health’s contracting arrangements contains some useful guidance on the additional safeguards required when contracts are awarded to a preferred or sole provider.
- 31 There is a high degree of commonality and consistency among all these documents (see Annex 6 for a summary of the main rules and regulations). Perhaps the most important general points for public sector agencies are:
- agencies should have clear and unambiguous procurement policies and ensure that they are applied fairly and impartially
  - any personal interests of employees should be declared
  - full records of all procurement decisions must be accessible for audit purposes
  - account must be taken of the “whole of life” cost of a project
  - a value for money approach must be taken
  - tendering is the preferred method of procurement – open tendering most of all
  - agencies should ensure that the terms of contract are adhered to
  - contract variations should not significantly alter the original scope of the contract
  - the full implications of any contract variations – including the cumulative effect of multiple variations - should be considered

- formal records should be kept of the case for any changes to the original contract.
- 32 In addition, the Commission's policies specified that:
- the Legal section must draw up any contracts worth more than \$10,000
  - a formal tendering process must be used for contracts expected to cost more than \$50,000
  - all contract advice forms must be signed off at Deputy Commissioner level
  - contracts expected to cost more than \$20,000 must be approved at Deputy Commissioner level
  - advice forms and the original contract must be lodged with the Chief Financial Officer prior to the commencement of work
  - the Industry Capability Network must be advised of the intention to contract for sums in excess of \$50,000
  - performance must be closely monitored during the term of the contract
  - the Commission must retain its decision-making role – ie consultants are advisory only and may not take decisions on behalf of the Commission.
- 33 Annex 4 contains a table indicating where Commission/Voco contracts failed to comply with the rules and policies in force at the time.

**Comment**

- 34 There are four issues of concern in this area.
- 35 First, it will be seen that there were **frequent procedural irregularities** and oversights in the way Commission/Voco contracts were let, extended and varied. Among the most common faults were:
- signed copies of contracts and advice forms not lodged with the Chief Financial Officer
  - case for variations and extensions not documented
  - Legal section not always consulted about contracts
  - Industry Capability Network and Industrial Supply Office not advised of decisions
  - advice forms not always completed
  - work commenced before contract signed
  - cost overruns validated retrospectively
  - variations in some cases changed the scope of the original contract.
- 36 These irregularities are for the most part procedural in nature. In themselves they are unlikely to have had any significant impact on overall project outcomes. They are however of concern for two reasons:
- they are symptomatic of the miscommunication and misunderstandings that often occurred at the interface between the GSN project and the Commission's support units – in this case mainly the Legal, Finance and Records sections. As discussed below, this reflected both the difficulties experienced by the support units in bringing the right kind of expertise to bear in sufficiently timely fashion to support the project (for example, adapting contract management processes to meet urgent

requirements) and the difficulties project personnel had in understanding and working within the processes and requirements of a central agency of government

- they also reflect poorly on the Commission’s project managers. Whatever the difficulties, delays and frustration involved in doing things “by the book”, and notwithstanding that they would have often been relying on the support units for guidance, it was ultimately a project management responsibility to ensure compliance with all the relevant rules and regulations. In this sense the strong commitment of the project management team to the commercial success of the GSN project could be said to be a vulnerability as well as a strength. It manifested itself from time to time in a reluctance to seek or heed advice; a tendency to rush ahead rather than pause and reflect and a preference for dealing with issues as and when they came up (often described as “agile management”) rather than taking a more measured and sequenced approach to the planning and implementation of the project.

37 Second, it is open to question whether the process used for the **selection of Voco for the initial design phase of the GSN** project was the most appropriate. It was not a matter of non-compliance with the rules applicable at the time – a closed tender process is not ruled out in circumstances where only a small number of firms are known to have the requisite capability for an assignment. Moreover, the cost was initially expected to be around \$200,000 rather than the \$700,000 which it ultimately turned out to be. The fact that the process was rushed is explained partly by the desire of the SSC’s project managers to get cracking before the Christmas break and partly by the impending departure of two key players. However, given the potential for a perception to arise of uneven treatment (see above) and the obvious importance of getting the design right at the outset, a full tender process would have seemed a wiser choice.

38 All this is not to say that Voco was not the best option or that it would not have won the tender in a more open process. The independent panel which assessed the closed tender bids rated Voco as the best firm for the job.

39 Third, there are obvious questions around the decision to **award the initial implementation contract to Voco without going out to market** through an open tender process. This was a major contract by any standards – initially expected to cost \$2.3 million but increasing to just under \$5 million by the time the GSN programme was deemed to be operational in September 2007. It marked a step change in the project between the design and implementation phases of the GSN project. And it risked giving rise to a perception of “inside running” – ie a contract that in effect had been designed by Voco being handed to them on a plate while all the other work streams were subject to open tender processes. It was a time and materials contract. For all these reasons, an open tender process would have seemed not just the correct course of action in terms of the Commission’s rules but the more prudent option.

40 Now, the decision to award the core project team contract to Voco without going out to market was taken by the Deputy Commissioner (ICT) on the recommendation of the SSC’s Project Owner. The case for not running an open tender process was set out very clearly in the latter’s memorandum of 9 August 2005 to the Deputy Commissioner (ICT). In short, he argued that Voco should be retained as the core project team without a contestable process because:

- the Voco project leader had established his credibility with agencies and built momentum on the project

- this person was an obvious choice to head the Project Management Office, for reasons of both continuity and experience with the project
  - it was important to retain the services of Voco's project architect, solutions designer and agency implementation planners.
- 41 While appreciating that the Project Owner and Deputy Commissioner (ICT) took their decision in what they believed to be the best interests of the project – and accepting their point about reducing risks to the project and maintaining credibility and momentum with client agencies – it would in my view have been preferable on a number of counts to put this contract out to tender. It is moreover unfortunate that this major decision was taken without reference to either the State Services Commissioner or the GSN Steering Group.
- 42 Fourth, there is a question as to whether the **cumulative effect of the series of extensions and variations** to the first implementation contract with Voco was fully taken into account by the SSC's project managers. Looking back, major cost overruns and time slippages are a striking feature of the project. Some of this was inevitable given the complexity and "first of a kind" nature of the project and problems experienced with some major suppliers. In particular the problems experienced at the operational phase of the project which required additional work from Voco probably could not have been foreseen at the design stage of the project. At the same time, there is a question as to whether some of the cost escalation and delays could not have been averted through better planning and more careful management.
- 43 For the record, I do not hold Voco to be responsible for any of the procedural errors of omission or commission relating to the Commission's handling of their contracts. They had every right to assume, as I believe they did, that the Commission would have followed due process in letting and extending the contracts.

### ***Findings***

- 44 **There were a number of irregularities and oversights in the way Voco contracts were let, extended and varied. To some extent these can be explained by the tensions between the project's commercial and operational imperatives and the Commission's standard operating procedures. Nevertheless - and even acknowledging the pressures on under-resourced managers and that the lapses were generally procedural in nature and unlikely to have had any significant impact on overall project outcomes – the irregularities reflect poorly on the Commission's project management team. Whether or not they received adequate assistance from the Commission's support units, it was ultimately their responsibility to ensure that correct procedures were followed and proper records kept. A desire to move the project along rather than spend time doing things "by the book" – particularly when the book in question was never designed for a large and complex commercial project – while it might explain why the short-cuts were taken on contracts, is no real excuse.**
- 45 **It is to my mind questionable whether the closed tender process used to award the initial (design phase) contract in December 2004 was the most appropriate way to go. On the one hand, the sum involved was relatively small (although the initial estimate of \$200,000 later increased to over \$700,000) and the impending departure overseas of two key players and the upcoming Christmas break argued for quick action. While the process did comply with the rules in force at the time (a closed tender approach was allowed in circumstances where only a small number of firms had the requisite capability) it might in retrospect have been wiser to have followed**

**an open tender process – both because of the prior association described above and because of the evident importance of getting the overall project design right at the outset.**

- 46 The decision in October 2005 to award the first major implementation contract to Voco without going through an open tender process was both unwise and a technical breach of the Commission’s Consultant’s Policy in force at the time. This was by any standards a large contract as well as a major step change in the project – it marked the move from design to implementation. While the arguments for a non-contestable approach were set out clearly in the Project Owner’s submission to the Deputy Commissioner (ICT), in all the circumstances an open tender process would have been both a more prudent and the correct course to follow.**
- 47 It is not clear to me that the cumulative effect of the many extensions and variations to Voco’s initial contracts were fully taken into account by the Commission’s project management team. (A basic rule of public sector procurement is that account must be taken of the “whole of life” costs of any project). Delays and cost overruns are a significant and unfortunate feature of the GSN project. While there are many reasons for this – and to a large extent they lay outside the project’s control – more careful planning at the outset, coupled with a more measured and better documented approach to contract extensions and variations, might have helped.**
- 48 For the record, I do not attribute any responsibility to Voco for any of the slip-ups identified above. They had every right to expect, as I believe they did, that the Commission would have followed the correct procedures in letting and extending the contracts.**

## Quality of management decisions

### **Background**

49 The terms of reference asked me to look at:

*“whether managers, appropriate to their level, exercised adequate direction, judgement and governance to ensure that Voco delivered its services within allocated budgets, agreed timelines and agreed scope”*

50 In considering these questions I have felt it necessary to give some consideration to the way the GSN project as a whole was designed and structured. Not only did this set the context for the Commission/Voco contracts, but the decisions taken by the government on the project’s objectives and the way it should be approached by the Commission were a major determinant of the way the Commission tackled their management responsibilities.

### **Governance Arrangements**

51 A useful definition of governance is “the processes by which organisations are directed, controlled and held to account.”

52 The question of how to establish effective governance arrangements for all-of-government projects has been a significant challenge in New Zealand since the public sector reforms of the 1980s. The underlying challenge in the case of the GSN project was to create “horizontal governance” in a public sector model based on individual agency accountability. Work is now underway to address the governance issues highlighted by the GSN project experience.

53 The governance arrangements agreed upon for the GSN project comprised three main elements:

54 The GSN Steering Group’s membership included a number of core Public Service, agency representatives (“in order to give the effect of ownership of the GSN by agencies” in the words of a March 2006 submission), industry experts and central agencies representatives.

55 The Steering Group was chaired initially by the Deputy Commissioner (ICT) and then, for several weeks, the Project Owner. Thereafter it was chaired by the Chief Executive of one of the foundation agencies (who was also appointed to the All-of-Government Advisory Board – see below). It was always intended that the GSN Steering Group would be disestablished once the project was rolled out.

56 Initially the Steering Group met fortnightly, with special workshops and additional meetings being scheduled as necessary. The meetings became less frequent as the project wore on.

57 The mandate of the Steering Group – which went through several iterations before being more or less agreed by all concerned – was to:

- act as advocate for the project (to agencies)
- monitor the progress of the project, including through regular project and IQA reporting
- provide guidance to the Project Sponsor (Deputy Commissioner (ICT)) and owner
- monitor project risks

- consider proposed changes to the project’s scope, timetable and expected outcomes
  - validate the project’s design approaches and strategies.
- 58 A paper prepared for Steering Group members at an early stage listed a number of additional duties, such as approving all major plans, signing off completed milestones and ensuring that adequate resources were available to the project. It is not clear to me from either the documentation I viewed or the interviews I held whether these differing objectives were ever reconciled in one authoritative mandate. The records of Steering Group meetings suggest some variability in the way different members interpreted both their and other bodies’ roles. Part of the confusion arises from the fact that the Steering Group was described formally as part of the GSN project’s governance arrangements when in fact it was more of an advisory body than a true governance body.
- 59 I note here that there is an intrinsic difficulty when Steering Groups or other advisory bodies are established with a measure of oversight responsibility over a project but no formal authority over executive functions. Under the State Sector Act 1988, it is the responsible Chief Executive – in this case the State Services Commissioner – who has decision-making authority and is formally accountable for the success or otherwise of the project. Faced with this ambiguity, perhaps all one can suggest is that the roles and responsibilities of the Chief Executive and the advisory body be made clear and that the Chief Executive and the Chair set up regular, structured meetings to share information and coordinate their positions and approaches. To the best of my knowledge no such arrangements existed in the case of the GSN project – although obviously there was a good deal of interaction between the Commission’s project management team and the oversight bodies at various times.
- 60 An All-of-Government Advisory Board was established by Cabinet in December 2005 with the stated objective of providing support for the Deputy Commissioner (ICT) in his stewardship role for all government-wide IT operations. (It was in essence a replacement for the earlier E-Government Advisory Board.)
- 61 The Board’s mandate included the provision of advice on:
- funding models and arrangements for major government-wide IT projects
  - the alignment of products and services with government’s strategic objectives (eg digital strategy and transformation of government)
  - the performance management of government-wide IT projects
  - risk management.
- 62 Its membership was drawn from core Public Service, State sector and local body agencies and the IT and financial services industries. It was to be chaired by the Deputy Commissioner (ICT) and to meet some five times a year.
- 63 My examination of relevant papers showed that the Advisory Board received progress reports on the GSN project from time to time. It discussed questions such as the form the GSN Performance Measurement and Reporting Framework should take. By and large however it does not seem, at least from the records I have seen, to have assumed anything like an ongoing governance role or to have felt responsible for ensuring that the GSN project stayed on track. Partly this may have been because its focus was on IT operations, and it was only some considerable time after its establishment that the GSN project became anything like operational.

- 64 The State Service Commission's Senior Management Team (SMT) received occasional progress reports on the GSN project as one of the Commission's major activities. The GSN project also featured in its consideration of regular reports on financial issues, internal controls and risk management. The SMT's responsibilities were however many and varied and it clearly did not see itself as having full governance responsibility for the GSN project.
- 65 From mid-2007, when it became apparent that the GSN project was facing serious difficulties, the SMT progressively stepped up its monitoring of the project. By mid-2008 it was receiving monthly reports on the project and spending significant time in considering and evaluating the risk levels around the project and weighing options for the future. The SMT played a central role in the decisions finally taken in late 2008 and early 2009 on both the future housing of government-wide IT operations and the future of the GSN project.
- 66 Now, a lot of effort went into devising a suitable governance structure for the GSN project. In the final analysis however the set of arrangements that finally emerged from the decisions taken variously by Cabinet, Ministers and the State Services Commission – in some cases with input from other central and client agencies – fell some way short of being an effective governance structure. Not only were there too many bodies involved, but responsibility was too widely dispersed and confusion existed as to their respective roles and responsibilities.
- 67 A crucial mistake in my view was that in the final result no one governance body felt responsible and accountable for the overall direction of the project, the performance of the project management team, monitoring the environment for changes in the market situation and assessing the ongoing viability of the project as delays and underperformance by suppliers caused agencies to look elsewhere for their IT needs.
- 68 There were other shortcomings in this area. While it is not unknown for the person designated senior responsible owner or sponsor of a project to chair the Board overseeing the project, I question the effectiveness of this arrangement – which applied both in the early stages of the GSN Steering Group and throughout the AOG Advisory Board's life. The composition of the Board and Steering Group seems also to reveal some confusion about the purposes the bodies were meant to be serving. The inclusion of client departments on both might explain what in retrospect seems to have been rather carefully managed reporting on the project. Given the importance of maintaining the interest and support of clients, it is perhaps not surprising that management reports tended to accentuate the positive and downplay the negative.
- 69 In retrospect, the quality of the progress reports and financial forecasting provided to the governance bodies by project management is open to question. The status reports prepared by project managers were comprehensive and well written but seem lacking in analysis and focussed on the trees rather than the forest. The risk with such an approach is that major issues (and risks) get buried in detail. Moreover, the sections on the project's financial situation and prospects seem rather light given the commercial nature of the project.
- 70 While the IQA reports produced by the firm of Hexad were well written and raised a number of issues and concerns, I saw little evidence that these were always given the attention they deserved by project management or pursued seriously by the Steering Group or the Advisory Board. (I note for the record that Hexad's initial contract for the provision of independent quality assurance services to the GSN project began only in

September 2005 and ran to July 2006. An extension subsequently took it to March 2008. Its contract did not cover Voco's full set of engagements with the Commission.)

- 71 Audit New Zealand's monthly monitoring reports were based primarily on a perusal of Steering Committee papers and minutes, a study of project managers' reports and IQA reports and occasional discussions with key project players. Audit New Zealand was first contracted to provide this service in late 2005. From the samples I have seen, its reports tended to be descriptive rather than analytical in nature. I have not had an opportunity to see any Treasury reporting on the project, apart from the exchanges around funding. The April 2001 Cabinet directive specifying the monitoring regime to be applied to major IT projects leaves a great deal to the judgement of the monitoring agencies – normally the Commission and the Treasury but in this case (because the Commission was itself managing the project) using Audit New Zealand in place of the Commission.

### **Management Structure**

- 72 The Commission's GSN management structure began with an orthodox and relatively straightforward arrangement (Project Owner to the Project Sponsor (Deputy Commissioner (ICT)) and then on to the State Services Commissioner and Minister of State Services, with additional reporting lines from the Deputy Commissioner (ICT) to the Advisory Board, Steering Group and Senior Management Team). The wiring diagram became more complicated following the declaration of "Project Exit" in September 2007 by bringing the managers of the Business Development and Uptake unit (BDU) and the All-of-Government Operations unit (AOG (Ops)) in alongside the GSN programme manager. The structural awkwardness here is that those managers came together only at Deputy Commissioner level – which partially explains what was obviously a challenging set of interfaces and relationships for all concerned.
- 73 More important however was the seeming inadequacy of the arrangements made with the Commission for the overall management and supervision of the GSN project (as opposed to the GSN Project Management Office, which was run on contract by Voco). I was told that the Deputy Commissioner (ICT) – technically the Project Sponsor – put on average some 5% of his time towards this project. For the Project Owner, the figure was estimated at around 15-20% of his time. This was in my judgement quite inadequate in terms of overall project supervision as well as for the purposes of monitoring and managing Voco's role in the project and keeping an eye on the multitude of important relationships with key suppliers, governance bodies, central agencies, support units and so on.
- 74 To be fair, the time allocation for the Project Owner may have seemed more adequate before the project started to run into major problems with suppliers. As I understand it, an attempt was made in early 2007 to bring in a full-time Commission employee as overall project manager. Unfortunately, however, the preferred candidate decided not to take the position and it was several months before a contracted employee was appointed to it. All this left the part-time Project Owner with far too heavy a burden of responsibility.
- 75 A third complication for those involved in the project was the difficulty experienced in establishing good working relationships with the Commission's support units on which the project relied for specialist services. (This issue is covered in more detail elsewhere in the report.) The main units involved were the Records, Legal and Finance sections. Sufficient to say here that, despite the strong efforts of all concerned, the project often felt handicapped by the inability of those units to deliver what the project wanted when it

needed it, while the support units in turn often found it difficult to respond to the project's demands in the manner requested of them. The fact that the project team comprised both Commission employees and contract employees with no great understanding of public sector processes and the rationale for them, obviously did not help. Moreover, as the project ran into major delivery problems and signs of waning agency interest, project management became increasingly preoccupied with tackling those problems.

- 76 For the above reasons alone – dispersed governance structure, inadequate management structure and shortcomings in support arrangements – it would have been difficult for the Commission's managers to have “exercised adequate direction, judgement and governance” to properly monitor and document Voco's performance through all the different phases of the GSN project.

### **Other issues**

- 77 But there were other problems that made it even more difficult for the Commission's managers to discharge their obligations.
- 78 First, the initial **design of the project** in itself created some major challenges and complications. The decision not to make it compulsory for agencies to sign up to the GSN network not only left open the possibility that the project would ultimately fail to achieve critical mass (which in fact is what happened) but required the Commission to invest a huge amount of time in “selling” the project to other agencies. It was after all intended that the initial development costs as well as the operating costs of the network would in due course be recovered in full. (This is not to argue that the GSN network should have been mandated for public sector agencies. Not only would this have sat awkwardly with New Zealand's devolved model of public sector management and individual agency accountability, but it could ultimately have caused huge problems given the delivery problems the project ran into.)
- 79 Second, it was in retrospect a **huge ask for the Commission** – a small policy/ regulatory agency with virtually no service delivery track record – not only to run this large, complex project but to persuade other agencies that it could in fact deliver on it. One wonders whether a stronger effort should not have been made to get a major telecommunications company to manage the project, whatever reservations might have been held about the capacity and competitiveness of the telecommunications sector at the time.
- 80 A third major risk was that the mere arrival on the scene of the GSN project would force the **major telecommunications companies to sharpen their pencils and become more competitive**. Thus, agencies were before long being offered better services and lower prices than had been available in the pre-GSN period.
- 81 The decision to open the project up to **multiple suppliers** also added to the complexities and management overheads of the project. This might have been necessary given the complex and uncertain commercial and regulatory dynamics of the telecommunications industry at the time, but it was an added handicap for the project.
- 82 One feature of the project not anticipated at the outset – and largely outside the control of project managers – was the serious **difficulties experienced in getting some of the major suppliers to deliver** against their contracts on time and up to standard. This proved a heavy burden on the project – GSN management, business development/agency relations and service delivery/operations alike. This factor helps to explain the project's cost and time overruns as well as the increasing reluctance of agencies to commit to it.

- 83 At the same time, there are questions about some of the decisions taken by the Commission’s managers.
- 84 One issue concerns the seeming **absence of any high level independent reviews** of the overall viability of the project, particularly at the point at which the increasing competitiveness of the major telecommunications companies and delivery problems experienced by the GSN project were causing a flagging of agency interest in the project. Regular environmental scans are normally the shared responsibility of governance and management. The dispersed nature of the project’s oversight arrangements, coupled with the rather bland and reassuring nature of the monthly project reports, meant that this kind of stocktake simply did not take place at governance level. Certainly, there were a number of reviews conducted at an operational level – for example, PA Consulting’s Independent Readiness Review in 2007. Moreover, a lot of thought and discussion obviously went into the way ahead at project management and Project Owner level. The general mindset at project management level however seems to have been that the project had to succeed and that any difficulties must and could be overcome. While the strong commitment of those involved in project management is to be commended, there is a strong sense of “capture” – a reluctance to look objectively at the mounting difficulties facing the project and the increasing possibility that it would not ultimately get the requisite level of uptake from agencies.
- 85 There is currently on trial in the New Zealand public sector an independent review process known as the “Gateway Process” whereby a small team of experts puts projects through a rigorous examination at key decision points such as when the strategic case for the project is developed, the business case is prepared, decisions on contracts are about to be taken, readiness for service is being assessed and so on. (The GSN experience was, I understand, a factor in the decision to trial the Gateway approach as a means of ensuring better value from such projects.) Such a process is no substitute for an effective governance structure, clarity of management roles and responsibilities, strong financial management and careful risk management – and of course it had not been introduced in New Zealand when the GSN project got underway. But given the governance and management weaknesses inherent in the GSN project, it could have been a very useful check and balance.
- 86 Annex 5 identifies the numerous **irregularities that occurred in the way in which the Commission/Voco contracts were let, extended and varied**. It is probably fair to say that none of them would in itself have impacted significantly on the course of events. They do nevertheless raise questions about the overall quality of decision-making by Commission managers in relation to Voco’s role in the project.
- 87 I have given some thought to the span of **responsibilities given to Voco** in the project. I do not question the need to contract in the technical and project management skills that the Commission obviously lacked, neither would I question the initial decision to place Voco on a “time and materials” contract. I am aware that there are no easy answers when multiple suppliers are involved in a project of this technical complexity. But I do have misgivings about the decision to give Voco such wide responsibilities for project design and management when they were also a major provider of services to the project. While I have no reason to believe that Voco exploited this situation, they were in a position of, in effect, helping to shape their own brief. It is also unclear to me – again, without wanting to suggest that Voco acted other than in good faith or at any stage attempted to improperly leverage off these relationships – whether there was sufficiently close management of the situation wherein Voco staff were handling many of the

Commission's negotiations with client agencies on GSN agreements in which they might at some future point have a significant commercial interest.

- 88 There is also a related question around **how closely and well Voco's contracts were monitored** by Commission managers. Time and material contracts are by their nature harder to monitor than contracts with tightly specified deliverables, standards of acceptance and timelines. The fact that contracts were time and again extended and varied as further work was identified tends to suggest that too little time was spent in planning and too much left to chance. While I do not question the Project Owner's ability or strong sense of responsibility for the project, it is not clear to me from the papers I was shown that the Voco contracts were monitored and managed with the rigour that this situation required. Certainly the project documentation I saw did not provide the evidence of careful, documented assessment of performance against the standards and targets of each contract. While the inherent difficulties of the project and the multitude of complications and pressures that confronted project managers offer some explanation for this – along with the limited time at the Project Owner's disposal for overseeing the GSN project – it stands out as a point of vulnerability in the Commission's management of Voco's role in the project.
- 89 There is one decision that stands out as something of a line call – the declaration of **"Project Exit"** in September 2007. By this decision, as one observer expressed it, the GSN project "morphed" from its implementation phase into an operational phase with a number of projects still "in flight". On the one hand there was a clear case for moving the project on to an operational footing now that at least some of its services were rolled out. The fact that it was already some way behind schedule and rapidly losing support from client agencies was another factor, as was the desire to move a major external (non-Voco) supplier on to a new set of contractual arrangements. Moreover the operational side of the project needed to get underway. On the other hand there were a number of products still in the pipeline and serious questions about the reliability of some of those already in use.
- 90 I do not feel able to say that the decision was either right or wrong. It was clearly a trade off. Documents I have examined confirm that project managers and the GSN Steering Group spent a lot of time weighing the pros and cons of each course of action before deciding to bite on the bullet. It has the hallmark of those situations where there is no good option around and so you take what seems to be the least bad one.
- 91 This section focuses heavily on the areas where the decisions taken by Commission managers seem to me to leave something to be desired. What needs to be borne in mind in passing judgement – apart from the fact that a number of very good management decisions were also taken in the course of the project – is that the project was fraught with risks and challenges from its inception and was made progressively more difficult as time went on by shifts in the telecommunications market and the poor performance of some suppliers. Thus you had a situation where an agency neither designed nor equipped to run the project even in favourable conditions found itself wrestling with a succession of problems largely not of its making and outside its control. This put a significant strain on all the people and structures concerned. It is perhaps no wonder that some decisions, viewed with all the advantages of hindsight, seem poorly taken. It might help to balance the criticism if I quote here from an independent observer in March 2008: "The wider environment for the GSN project has been complex and complicated and it is a credit to all concerned that tangible outcomes have been achieved".

## **Findings**

- 92 With the advantage of hindsight it can be seen that a serious weakness of the GSN project which complicated the decision-making that went into Voco's role was the inadequacy of the GSN governance arrangements - and in particular the lack of clarity around the roles and responsibilities of the three oversight bodies. Much effort went into the development of a governance structure – and many people put a lot of work into the supervision of the project – but in the final analysis the structure did not work well. Given the scope, importance and complexity of the GSN project, a single governance body charged with full oversight responsibility and working direct to the State Service Commissioner, would have seemed preferable. By full oversight responsibility I mean setting and reviewing the strategic direction for the project, keeping an eye on changes in the environment that might affect the ongoing viability of the project and monitoring the performance of the project management team.
- 93 The Commission's internal management structure for the GSN project also posed a problem in terms of decision-making on Voco's contracts. Perhaps the most serious weakness was that the Deputy Commissioner (ICT) and Project Owner were apparently expected to discharge their responsibilities to the GSN project within some 5% and 15-20% respectively of their time. This was clearly inadequate. To be fair, an attempt was made in early 2007 to employ a full-time programme manager. It was however not until early 2008 that this occurred. Moreover the matrix management arrangement that came into effect on the declaration of Project Exit seemed to require very high maintenance. Again, a single line of accountability from a full-time, Commission-employed GSN project manager to the Deputy Commissioner might have been a better option.
- 94 There were also shortcomings in the arrangements made within the Commission to provide the project with specialist support in such areas as financial management, legal advice, documents management and office accommodation. These weaknesses put additional pressure on the Commission's project management team and made it more difficult for them to discharge their responsibilities. This is dealt with more fully below.
- 95 A weakness in the GSN project as a whole as well as in the contractual arrangements with Voco was the seeming absence of any independent mechanism for reassessing the status and prospects of the project at key milestones. Rigorous peer reviews of the kind currently being trialled under the "Gateway Process" might have helped, particularly at the point at which the more competitive approach of major telecommunications companies and repeated delivery problems were causing client agencies to lose interest in the GSN. Certainly there is evidence that the way ahead was constantly under review by the project team. There was in addition an independent quality assurance (IQA) process run by Hexad, regular monitoring of the project by the Treasury and Audit New Zealand and the deliberations of the GSN Steering Group, the All-of-Government Advisory Board and the Commission's Senior Management Team. A comprehensive "Performance Measurement and Reporting Framework" and monthly project status reports were also in place. But despite all these measures, the key risks and problems facing the project never seemed to be highlighted or analysed to the extent they should have been – or to get quite the attention or action they required.
- 96 There is a question in my mind about the wide-ranging nature of the responsibilities given to Voco under the October 2005 contract and subsequent variations and

extensions. It was inevitable once the decision was taken to house the GSN project in the Commission that a firm such as Voco would need to be contracted in to provide the project team with the necessary technical and project management skills. I am told that the Commission's management team rated Voco's performance highly. But I am left with misgivings about the decision to give one firm so much of a say in the design and management of a project to which they were also a major supplier of services. That, together with the decision to use Voco to represent the Commission in its dealings with client agencies, would have added considerably to the already-heavy responsibilities of the Project Owner for contract monitoring and supervision.

- 97 Another feature of the Voco contracts that must have placed real pressure on the Project Owner was that they were time and materials-based. Voco's invoices were normally certified for payment by the Project Owner. He stated to me that he stayed close to the project at all times, kept a careful eye on Voco's performance and did not authorise payment until he was fully satisfied that they had met their contractual responsibilities. There was however little documentary evidence of just how the firm's performance against each contract had been assessed. While I can understand the Project Owner's desire to get on with the project rather than spend time filling in forms and documenting discussions and decisions, I have to note that the absence of an audit trail makes it difficult to assess either Voco's performance or his own management of the contracts. And while the available documentation indicates that Voco's costs were generally in line with market rates - and benchmarking exercises were conducted from time to time - it is not clear to me that the rates were always - in the words of the Controller and Auditor-General - "actively negotiated" to the extent they might have been. .
- 98 Questions were raised with me about the decision to declare "Project Exit" in September 2007, when not all the key products were ready to be rolled out and the project was still bedevilled by technical problems and supplier delays. On the one hand there were strong arguments for moving the project from an implementation into an operational phase - for example, the need to show agencies something for their money, an interest in reducing run rates and the desire to move a major (non-Voco) supplier on to a new set of contractual arrangements. On the other hand, there were a number of issues with the reliability of the products rolled out as well as a number of products still in the pipeline. This was clearly a trade-off situation, and the records show that it was debated strongly at both management and governance level. Perhaps it was one of those situations in which there is no good answer and you take what seems to be the least bad option.
- 99 Finally, I note that this section deals with the quality of the Commission's decision making on the GSN initiative and its handling of the Voco contracts. I have not attempted to assess the performance of Voco or any other contractor or supplier involved in the project.

## **State Services Commission's support systems and controls**

### ***Background***

- 100 I have commented earlier that it was always going to be a major challenge for the State Services Commission – a small, central policy/ regulatory agency with little experience of service delivery – to take on the management of this large, complex, technology-driven and heavily-commercial project. Once it had been decided that the project should be run by a government agency, it was presumably a case of there being no other likely candidates – and certainly none with the Commission's central position and all-of-government mandate. It is worth recording that, as is the case in most other comparable jurisdictions overseas, the New Zealand government has now moved to place shared ICT services in another agency.
- 101 It was to my mind inevitable that the housing of the project in the Commission would cause tensions and problems between the commercial imperatives of the project and the Commission's normal way of doing things. Added to this was the fact that large numbers of contracted employees – who despite induction programmes would not have the same familiarity with and understanding of public sector values and processes as public servants – were brought in to do much of the GSN work, including at quite a high level of responsibility.

### ***Governance and management arrangements***

- 102 The sections above outline the difficulties encountered with governance arrangements and the project's management structure. They also refer to the problems encountered as the Business Development Unit and All-of-Government Operations Units became involved in the shared management of the GSN programme following the declaration of Project Exit in September 2007. So far as support systems are concerned, the project from time to time had to depend quite heavily on the Legal and Finance sections as well as the Records section. The Commission's Human Resources section continued to look after Commission employees working on the GSN project, while contracted employees were a project responsibility.

### ***Support Services***

- 103 As a general observation, the Commission's support units found it a real stretch to service a project so different from the mainstream units in the Commission in terms of its size, nature and complexity. My impression is that too much was left to chance in this area and that a more careful study should have been made at the outset of just what the project would need by way of servicing and support. It was not just that considerable extra work was involved: the GSN project was quite different in terms of the commercial pressures it was under and the type of services it needed.
- 104 A significant sum (just under \$5 million in all) was provided for in the GSN budget to cover corporate support provided by the Commission. So far as I can ascertain, there was no significant strengthening of the key support units to accommodate the project's needs, neither was the project allocated sufficient dedicated resources to make it self-contained. A specialist was recruited for the project in the financial management and reporting area, but he also had wider responsibilities in the ICT area. Likewise, external legal advice was bought in from time to time. The interface between the GSN project and the Legal section seems to have been a recurring problem for both sides. On the one hand, a hard-pressed Legal section felt that it was often given inadequate notice to work out a way of accommodating requests that did not fit easily into the Commission's

standard operating guidelines. For its part, project management found the approach of the Legal section cumbersome and time consuming in comparison with normal commercial practice. Overall, document management also seems to have been a problem throughout the life of the project, with no clear agreement between project staff and the Records section as to how project documents should be managed.

### **Internal Controls**

- 105 It is not surprising to find that the Commission's internal control systems also had difficulty coping with the demands of this large, sprawling project. It had no formal system requiring staff to register interests when the GSN project began because in the context of its mainstream work such a register was not needed. Its arrangements for managing procurement and contracts were rather dispersed around various units – primarily the Finance and Legal sections – and for its mainstream work (which involved mainly individual consultants) this arrangement had seemed to function adequately.
- 106 The Commission's general risk management processes were based on the Australia/ New Zealand standards. While they may have been adequate for the Commission's mainstream work, they were certainly not designed for this kind of project. Moreover, the SMT could perhaps be excused for assuming that, since the project ran its own risk management system – on which it reported to the GSN Steering Group – it did not need to focus too heavily on the GSN project. On the other hand, as mentioned above, the Steering Group regarded itself as more of an expert advisory and representative body than a governance body and took the view that overall management of the project – including financial and other risks – was more properly a matter for the Commission. This lack of clarity around the roles and responsibilities of the three bodies playing an oversight role was clearly a problem for the project. It tends to support the contention that the best system of accountability is one based on a single responsible person working to a single governance body.

### **Future action**

- 107 As to future action by the Commission, I note that two related pieces of work are now underway on the contract management system. An audit of the Commission's records aims at ensuring that the location and details of all contracts are appropriately recorded on a central contracts register. A larger piece of work has commenced to: identify shortcomings and weaknesses in the current system; develop a new, more robust contract management process; design a training course for all contract management system users; and set up a reliable contract storage system to hold all contract data in a secure and accessible way. I have gone through the documentation around this exercise and am satisfied that it will result in a more centralised, more reliable and better supported system than is available at present.
- 108 On risk management, the State Services Commissioner has decided to establish an externally-chaired Risk and Assurance Committee reporting directly to him. The Committee will meet at least quarterly to provide advice to the Commissioner on such matters as risk management, internal control mechanisms, internal and external audit programmes, the standards of financial reporting, governance issues and legislative compliance. This Committee is expected to be in operation by the end of March 2009. At the same time, the SMT has decided to step up its risk management scrutiny and to move from a six-monthly to a monthly reporting pattern.
- 109 The State Services Commissioner has recently given consideration to the question of an internal audit capability. He has concluded that an in-house internal audit capability is

not appropriate given the small size of the Commission. Instead, internal audit services will be contracted in to ensure that its internal controls and processes are operating effectively.

### ***Findings***

- 110** As indicated above, it was always going to be a stretch for the Commission's specialist support units (primarily the Finance and Legal sections, Records and Office Services) to accommodate the demands of this large, technology-driven and heavily commercial project. Difficulties and frustrations were experienced on both sides of the interfaces. In retrospect, a stronger effort should have been made to assess the project's support needs at the outset, to adjust resourcing levels in the support units and to establish with greater clarity just how the relationships should work. Alternatively, or additionally, more specialist support should have been built into the project team.
- 111** The Commission's internal control systems had difficulty coping with the advent of the GSN project. The Commission's arrangements for contract management had traditionally been dispersed over a number of units – an arrangement that might have been adequate for its mainstream work but was not well suited to the needs of the GSN project. Much the same could be said to apply in the areas of financial and risk management. I was encouraged to see that the Commission is now moving strongly on the establishment of an independently-chaired Risk and Assurance Committee, a strengthened risk management register, a centralised and strengthened contract management system and an internal audit capability. Whether or not another project of this kind is ever housed in the Commission - and at this juncture that seems unlikely – these moves stand to be of considerable benefit to the Commission.

## **Appendices**

Annex 1 Terms of reference for review

Annex 2 List of people interviewed

Annex 3 Key reference documents

Annex 4 Table of contracting arrangements between the SSC and Voco

Annex 5 Summary account of Voco's involvement in the GSN project

Annex 6 Summary of rules and guidelines on procurement and contracts

## **Annex 1**

### **Terms of reference for review**

The State Services Commissioner will appoint an inquirer to review the history of the procurement and contracting arrangements between the Commission and Voco and the performance of the Commission in the following matters:

- 1 Whether there were any potential or perceived conflicts of interest arising out of the procurement and contracting of Voco's services and if so, were these appropriately managed;
- 2 Whether the contracting arrangements with Voco were undertaken in accordance with the rules, policies and expectations that applied at the relevant times to the contracting arrangements (including contract variations) that were entered into;
- 3 Whether managers, appropriate to their level, exercised adequate direction, judgement and governance to ensure that Voco delivered its services within -
  - the allocated budget
  - the agreed timeframes
  - the agreed scope
- 4 Whether the Commission had in place at the relevant times appropriate administrative and management systems, processes, policies and controls for contracts of the kind entered into with Voco; and
- 5 Will report on any other matter concerning the procurement and contracting practices of the Commission that the reviewer considers relevant.

## **Annex 2**

### **List of people interviewed**

#### **SSC EMPLOYEES (PAST AND PRESENT)**

- Ann Aspey
- Richard Best
- Edwin Bruce
- Lyall Callaghan
- Stephen Crombie
- Karen Fisher
- Gary Forrester
- Bethia Gibson
- Genevieve Hancock
- Roisin King
- June Lewis
- Hugh McPhail
- Laurence Millar
- John Ombler
- Isabel Regenaermel
- Mandy Simpson
- Anne Smith
- Gavin Valentine
- Stuart Wakefield
- Paul de Wijze

#### **OTHERS**

- Andrew Butler (Russell McVeagh)
- Alan Clifford (Audit New Zealand)
- Michael Foley (Voco)
- Martin Matthews (former Chair, GSN Steering Group)
- Sally Pulley (Hexad)
- Tim Roper (Treasury)
- Jon Wallace (Voco)

NB: One person with whom I sought a meeting was unavailable for reasons of ill-health.

## **Annex 3**

### **Key reference documents**

- Public Service Codes of Conduct (2000, 2001, 2005, 2007)
- OAG Statement of Good Procurement Practice (2001)
- SSC/Treasury Guidelines for Managing and Monitoring Major IT Projects (2001)
- MED Policy Guide on Procurement in New Zealand (2002)
- ICT Feasibility Study (February 2004)
- State Services Commission Statements of Intent and Annual Reports (2004-2008)
- Cabinet and Cabinet Committee papers and minutes (2004-2009)
- Ministerial submissions and reports (2004-2009)
- Government Shared Services Network (GSSN) – Business Case (December 2004)
- Reports to SSC’s Senior Management Team (2004-2008)
- Minutes of SSC’s Senior Management Team’s meetings (2004-2008)
- SSC Guidance on Use of Consultants (2004, 2008)
- SSC Delegation Policy Statements (2004, 2005, 2007, 2008)
- Business Case for GSN Project (2005)
- Minutes of GSN Steering Group’s meetings (2005-2008)
- GSN Project monthly status reports (2005-2008)
- Independent Quality Assurance reports (2005-2008)
- OAG Report on Ministry of Health’s Contracting (2005)
- Request for Proposal – Delivery and Management of GSN (July 2005)
- Roles and Responsibilities – GSN Project (July 2005)
- Business Requirements – Government Shared Network (August 2005)
- Foundation Principles for GSN Project (September 2005)
- GSN Project – Deployment and Transition (October 2005)
- 2006 Central Agencies Review (September 2006)
- Minutes of AOG Advisory Board meetings (2006-2008)
- Audit NZ monthly monitoring reports (2006-2008)
- SSC Consultants Guidelines (2006)
- MED Mandatory Rules for Procurement by Departments (2006)
- SSC Guidance on Procurement Policy (2006)
- GSN Project Management Plan (2006)
- Samples of GSN financial reports (2006-08)

- Samples of SSC Risk Management Reports (2006-08)
- Samples of GSN Workstream Reports (2006)
- Government Shared Network – Transition from Project to Programme (January 2007)
- PricewaterhouseCoopers ICT Organisation Form Review (September 2007)
- PA Consulting Independent Readiness Review (September 2007)
- Government Shared Network- Information and Product Details (November 2007)
- Starfish GSN Lessons Learned Report (March 2008)
- Starfish GSN Post Implementation Review (March 2008)
- GSN Product to Market Review (March 2008)
- GSN Future Options Review (May 2008)
- Request for Proposals – Review of GSN Processes (July 2008)
- GSN Cost Savings Report
- PricewaterhouseCoopers draft Review of Shared Services Network Processes, Parts I and II (November 2008) and responses to it
- GSN Cost Savings- Final Decision Document (December 2008)
- SSC Contract Advice Form
- Monthly Reports to Ministers on Major IT Projects
- All SSC/ Voco contracts (including variations and extensions) and invoices

NB: In addition to the above documents, numerous papers, memoranda, reports and email exchanges were accessed and reviewed in the course of the inquiry. Some interviewees provided written material to supplement the interviews and official documents.

## Annex 4

### Table of contracting arrangements between the Commission and Voco

In the course of the contracting arrangements between the Commission and Voco, varying policies, rules and guidelines applied at different times.

Applicable Policies, Rules and Guidelines	Dates Applied
Office of the Auditor-General's Procurement: A Statement of Good practice	Effective June 2001
Ministry of Economic Development Government Procurement in New Zealand – Policy Guide for Purchasers	Effective July 2002
SSC Guidance – Consultants Policy (including Lease Executives)	Effective May 2004
SSC Guidance – Consultants Guidelines	Effective May 2006
Ministry of Economic Development Mandatory Rules For Procurement By Departments	Effective 2 May 2006
SSC Guidance – Procurement Policy	Effective November 2006

Further guidance was also provided in the “SSC and Treasury Guidelines for Managing and Monitoring Major IT Projects - section 5 – Contractual Relationships” (effective August 2001).

Application of the rules, policies and guidelines to the contracts and variations is contained in the following table:

Contract RDMS No.	Description of services supplied	Date contract signed	Contract value (GST excl)	Amount paid under each cluster (GST excl)	Relevant rules Followed/shortcomings
<b>First cluster – Design phase</b>					
437758 (design phase)	To provide a temporary project manager for the Network Project Design phase and to provide specialist knowledge of network design and selection.	1/12/04	\$200,000		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>• Preferred open tender process not followed</li> <li>• No declaration of prior association by public servant awarding the contract</li> </ul> <p>MED Policy Guide – Government Procurement in NZ</p> <ul style="list-style-type: none"> <li>• NZ Industrial Supply Office (NZISO) not notified</li> <li>• Preferred open tender process not followed</li> </ul> <p>SSC Consultants Policy</p> <ul style="list-style-type: none"> <li>• Original contract not provided to Chief Financial Officer (CFO)</li> <li>• Industry Capability Network (ICN) not notified</li> <li>• No declaration of prior association by public servant awarding the contract</li> </ul>
515760 Variation of design phase contract	The table of services to be provided by Voco were extended to incorporate further work with several of the services to be provided under the first design phase contract to be continued over a further two month period.	29/06/05	\$500,000		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>• Lack of formal record explaining variation</li> <li>• Variation appeared to significantly alter the original scope of the contract</li> </ul> <p>MED Policy Guide – Government Procurement in NZ</p> <ul style="list-style-type: none"> <li>• No explanation of effect on value for money over the whole of life of the contract</li> </ul> <p>SSC Consultants Policy</p> <ul style="list-style-type: none"> <li>• No signed copy of the Consultants Advice Form to CFO prior to contract starting</li> </ul>
First cluster – total paid				\$739,459.11	

Second cluster – The implementation phase					
541932 Implement ation phase contract	To manage the implementation of GSN in accordance with the project management plan.	4/10/05	\$2,300,000		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>No open tender or any other type of tender</li> </ul> <p>MED Policy Guide – Government Procurement in NZ</p> <ul style="list-style-type: none"> <li>NZISO not notified</li> <li>No open or other tender</li> </ul> <p>SSC Consultants Policy</p> <ul style="list-style-type: none"> <li>No formal tender process</li> <li>Original contract not in Commission's safe</li> <li>ICN not notified</li> </ul>
575812 First variation implement ation phase contract	Recorded a change in personnel of Voco contractors providing services during the implementation phase.	28/02/05	Cost neutral		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>Lack of formal record of need for variation</li> </ul>
593716 Second variation implement ation phase contract	Extended the end date of the contract, increased maximum amount payable and provided for more flexibility over Voco personnel resourcing.	5/05/05	\$451,000		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>Lack of formal record of need for variation</li> <li>Apparent lack of consideration of full implications of change</li> <li>Apparent lack of consideration of cumulative effect of multiple variations</li> </ul>
672237 Third variation implement ation phase contract	Extended the end date of the contract, increased the maximum amount payable and agreed a new milestone date of 30 April 2007. Detailed explanation of need for variation recorded	20/12/06	\$855,000		<p>OAG Statement of good practice</p> <ul style="list-style-type: none"> <li>Apparent lack of consideration of the cumulative effect of multiple variations</li> </ul> <p>MED Policy Guide – Government Procurement in NZ</p> <ul style="list-style-type: none"> <li>No explanation of effect on value for money over the whole of life of the contract</li> </ul>

705376 Fourth variation implement ation phase contract	Extended the end date of the contract, increased the maximum amount payable and agreed a new milestone date of 30 June 2007. Rationale for extension of contract recorded	11/04/07	\$550,000		OAG Statement of Good Practice <ul style="list-style-type: none"> <li>• Apparent lack of consideration of the cumulative effect of multiple variations</li> </ul>
739824 Fifth variation implement ation phase contract	Extended the end date of the contract, increased the maximum amount payable and agreed a new milestone date of 31 August 2007. Rationale for extension that extension required to correspond with projected extended timeframes.	29/06/07	\$531,000		OAG Statement of Good Practice <ul style="list-style-type: none"> <li>• Lack of formal record of need for variation</li> <li>• Apparent lack of consideration of full implications of change</li> <li>• Apparent lack of consideration of cumulative effect of multiple variations</li> </ul> SSC Consultants Policy <ul style="list-style-type: none"> <li>• The Contract Advice Form is not signed by a Deputy Commissioner</li> </ul>
Second cluster – total paid				\$4,759,542	

Third cluster – The operational phase					
740876 Proposed sixth variation to implementation phase contract but for operational phase	Proposed variation to Voco contract which would incorporate previous services not completed and cover change in scope for operational phase.	11/07/07			Did not proceed – substituted by consolidated contract 744247
744247 Consolidation contract (Sixth variation)	Carried over provisions of the implementation phase contract (and variations thereto), recorded additional services Voco would provide under the operational phase (treated by Finance as a variation) and extended contract end date to 28 February 2009.	24/08/07	\$2,748,668		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>• Apparent lack of consideration of full implications of change</li> <li>• Apparent lack of consideration of cumulative effect of multiple variations</li> <li>• Significant change in scope for new phase of work</li> </ul> <p>MED Policy Guide – Government Procurement in NZ</p> <ul style="list-style-type: none"> <li>• No explanation of effect on value for money over the whole of life of the contract</li> </ul>
884066 Consolidation contract (Seventh variation)	Terminated Voco services for providing GSN programme management services	28/03/08	Reduction \$20,000 per month		
1011964 Consolidation contract (Eighth variation)	Varied the scope of services Voco to provide	26/09/08	Cost neutral		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>• Lack of formal record of need for variation</li> <li>• Significant change in scope</li> </ul> <p>SSC Procurement Policy</p> <ul style="list-style-type: none"> <li>• No Contract Advice Form to CFO</li> </ul>

<p>995713 Consolidation contract (Ninth variation)</p>	<p>Varied the scope of further services to be provided and recorded formal confirmation of four pieces of work undertaken by Voco under separate agreements called "terms of reference"</p>	<p>16/10/08</p>	<p>Reallocation of funds – cost neutral</p>		<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>• Lack of formal record of need for variation</li> <li>• Significant change in scope</li> </ul> <p>SSC Procurement Policy</p> <ul style="list-style-type: none"> <li>• Terms of reference – contractor not authorised to enter into agreements on behalf of SSC – corrected by variation</li> <li>• Terms of reference not referred to Legal</li> </ul>
<p>Third Cluster – total paid</p>				<p>\$1,956,355</p>	

Fourth cluster – Ten individual contracts with Voco for specific consulting services					
563716 (memorandum of payment)	Enhancement of two business cases for Shared Workspace Operational Funding and SSC ICT Capability Enhancements.  Note: this is in the form of a memorandum authorising payment after the work had been completed.	17/11/05	\$15,000	\$15,000	<p>OAG Statement of Good Practice</p> <ul style="list-style-type: none"> <li>No document recording the contract at commencement</li> </ul> <p>MED Policy Guide – Government Procurement in NZ</p> <ul style="list-style-type: none"> <li>No document recording the contract at commencement</li> </ul> <p>SSC Consultants Policy</p> <ul style="list-style-type: none"> <li>Contract not documented at commencement</li> <li>Legal did not draw up formal contract for procurement over \$10,000</li> <li>Original contract and signed Consultant Advice Form not provided to CFO prior to work starting</li> </ul>
619199 (letter of engagement)	Research on a set of consistent messages and statements for a “Network Alignment” document – to cover the description, the characteristics and intent behind each network initiative - intended to provide readers with a common, documented understanding of the purpose of each network.	3/08/06	\$6,000	\$6,000	<p>SSC Consultants Policy</p> <ul style="list-style-type: none"> <li>Commenced and completed work before contract in place</li> </ul>
677653 (letter of engagement)	Provide consultancy, advice and coordination of wider government network initiatives, within the context of the New Zealand Digital Strategy.	15/1/07	\$15,000	\$21,597.96	<p>SSC Procurement Policy</p> <ul style="list-style-type: none"> <li>Payment exceeded contract value</li> </ul>

825374 (letter of engagement)	Provide expert advice regarding GSN services and the positioning of those services relative to the Shared Services Organisation. These services are in areas aligned with, but not covered in, the then-existing Voco contract.	11/12/07	\$10,500	\$5,600	SSC Procurement Policy <ul style="list-style-type: none"> <li>Commenced work before contract signed</li> </ul>
850043 (letter of engagement)	Provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and working parties, and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects.	18/02/08	\$18,725	\$18,725	SSC Procurement Policy <ul style="list-style-type: none"> <li>Commenced work before contract signed</li> </ul>
871720 (letter of engagement)	Provide: industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group Reference Architecture and working parties and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects; contribute to the follow-on stakeholder meetings and provide additional preparation to complete the cabinet paper.	18/03/08	\$19,250	\$19,385.11	SSC Procurement Policy <ul style="list-style-type: none"> <li>Commenced work before contract signed</li> </ul>
894008 (letter of engagement)	Provide advice to the Project Manager, Demand Aggregation and the Manager, e-Government Projects; and contribute to the completion of the Demand Aggregation Cabinet paper.	16/04/08	\$19,250	\$18,758.89	SSC Procurement Policy <ul style="list-style-type: none"> <li>Commenced work before contract signed</li> </ul>

924313 (letter of engagement)	Provide: industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group Reference Architecture and working parties and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects; contribute to the follow-on stakeholder meetings and provide additional preparation to complete the cabinet paper.	26/05/08	\$17,500	\$19,250  (Contract limit extended by agreement)	SSC Procurement Policy <ul style="list-style-type: none"> <li>Commenced work before contract signed</li> </ul>
946446 (letter of engagement)	Provide: industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group Reference Architecture and working parties and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects; contribute to the follow-on stakeholder meetings and provide additional preparation to complete the cabinet paper.	25/06/08	\$17,500	\$16,100	SSC Procurement Policy <ul style="list-style-type: none"> <li>Commenced work before contract signed</li> </ul>
951931 (letter of engagement)	Provide: industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group Reference Architecture and working parties and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects; contribute to the follow on stakeholder meeting s and provide additional preparation to complete the cabinet paper.	3/07/08	\$17,500	\$19,250  (Contract limit extended by agreement)	
Fourth cluster – total paid				\$159,666.96	

## **Annex 5**

### **Summary of contracting arrangements between the Commission and Voco**

#### ***First Cluster: Design phase***

- 1 During 2004 the Commission, under the leadership of the Project Sponsor, was developing its Network Project and produced a document called “Digital Strategy for Government Networks’. This document contained a proposal for the planning, design and selection phase of an initiative to commission a Wellington and a national telecommunications network for government. It stated that this would provide an innovative and horizontally enabling technology platform for the future and would reduce costs for government agencies.
- 2 The document contained: a description of the work; the objective of the proposed initiative; the organisation and implementation requirements; the rationale for the proposal; the evidence in support of the proposal; a list of risks; and monitoring and evaluation requirements.
- 3 On or about 4 November 2004 the Project Sponsor invited three specialist suppliers of telecommunications consulting services to tender for the proposed work and provided each organisation with a ‘Background Report’. The Project Sponsor had worked previously for two of the three organisations approached.
- 4 The organisations were asked to respond with details of:
  - how they would approach the assignment
  - who would be the assigned individual consultant
  - their experience in technical and commercial design of NZ public sector networks
  - their charge rates and availability.
- 5 On or about 10 November 2004 two persons selected by the Project Sponsor, (one a consultant engaged by the Commission on the Network Project and the other a senior Commission employee) undertook an evaluative assessment of each of the three organisations. Although one of the organisations had not formally responded by this time, all three organisations were subject to the assessment process, with the assessment of the non responding organisation based on the assessors’ knowledge of the organisation’s skills.
- 6 The capability of each consultant/organisation was evaluated against the criteria of knowledge/experience, connections, skills and commercial arrangements (price and availability). Voco secured the highest assessment and the assessors accordingly recommended to the Project Sponsor that Voco be awarded the contract.
- 7 On 12 November 2004 the Project Sponsor notified Voco that it had been selected and after some negotiation an agreed daily rate was arrived at.

#### **Contract 437758: Original design phase contract [Contract Advice Form 437996]**

- 8 On 1 December 2004 the Commission entered into the contract with Voco, the contract being signed on behalf of the Commission by the Project Sponsor.
- 9 The terms of the contract included:

- Voco would lead the next phase of the State Services Commission Network Project Design in accordance with the First Schedule
- the contract period would commence from 22 November 2004 ending on 30 June 2005
- payment would be at the rate of \$1,440.00 per day, to a maximum of \$200,000.00 (exclusive of GST)
- that two consultants who would carry out the work on behalf of Voco were Michael Foley (lead) and Brendan Renall (specialist), together with other specialist as agreed upon between the parties from time to time
- that the Project Sponsor was to liaise with Voco on all matters relating to the agreement and the Project Sponsor was to receive quarterly [as and when required] reports from Voco.

10 The First Schedule described the services Voco was to provide as:

- developing the plan for the design and vendor selection process
- defining and securing agreement on the design and purchasing principles
- producing the design of the GSSN and G-WAN
- overseeing the continuing development of support from agencies
  - participation in GSSN by significant numbers of Wellington agencies
  - securing three agencies for G-WAN
- defining and establishing governance arrangements for the programme
- defining and implementing the selection process for suppliers of the networks
- Voco were to supply Michael Foley (leadership) at 24 hours (three days) a week and Brendan Renall (specialist) at 40 hours (five days) a week
- the leadership role was required at this level for the period to February 2005 but may then be reduced
- the specialist role would remain until the design and selection are completed.

11 A Contract Advice Form [437996] was completed, and sent to Finance as required by SSC policy on the engagements of consultants, although the copy on file is not signed by the Project Sponsor.

**Variation 515760: Variation of original design phase contract [Contract Advice Form 515653]**

12 On 29 June 2005 (one day prior to the end of the contract period) a variation of the contract was agreed by way of letter of variation.

13 The variation included:

- the end date of the contract was extended to 31 August 2005
- that payment schedule was varied so that the consultants would be paid at the rate of \$1,440.00 per each day worked on the assignment to a maximum of \$700,000.00 (exclusive of GST)
- the number of personnel Voco was to provide was increased by two, (Dudley Harris and Jon Wallace)

- 14 The First Schedule of services to be provided by Voco was amended as follows:  
“Tasks may include any or all of the following or any other related tasks mutually agreed between the Commissioner and the Consultant:
- producing the design of the GSN
  - overseeing the continuing development of participation and support from agencies
  - defining and establishing governance arrangements for the programme
  - develop and gain signoff from Steering Committee for Government Shared Network Project Charter and Project Plan
  - establish Government Shared Network Project team including Project Management Office
  - commence development of operational delivery statement of requirements for (external) machinery of government project
  - preparation of sourcing strategy and documentation, get ROI out to market (via GETS) and process submissions to recommended tender recipient list for SSC signoff
  - finalise RFP for the Government Shared Network and promulgate to the market.”
- 15 Under the two Work Schedules the tasks of:
- overseeing the continuing development of support from agencies
  - designing and establishing governance arrangements for the programme
  - defining and implementing the selection process for suppliers of the networks
- appear to be the same, or essentially similar, in both the contract and the contract variation.
- 16 Payment increased from \$200,000 for the first seven months under the original contract (22 November 2004 to 30 June 2005) by an additional \$500,000.00 for the following two months (29 June 2005 to 31 August 2005), with Voco under the variation bringing in two additional contractors.
- 17 The total amount paid under the contract and variation was \$739,459.11 (GST exclusive).
- 18 The Contract Advice Form [515653] appears to have been completed but there is no signed copy in the safe or on file. The document management system number quoted in the Advice Form is different from the contract number and it appears as if the job number rather than the contract number was referenced. The Advice Form does not include Jon Wallace, who was named in the contract as one of the contractors to carry out the work.

## **Second Cluster: The implementation phase**

### **Original implementation contract [541932] – [Contract Advice Form 542440]**

- 19 On 4 October 2005 the Commission entered into the contract with Voco, the contract being signed on behalf of the Commission by the Project Sponsor.
- 20 The terms of the contract included:
- Voco would manage the implementation of the GSN in accordance with a project management plan and in accordance with the tasks set out in the First Schedule which included the continued development and roll-out of GSN and more specifically responsibilities for two additional contractors, (Joe O’Neill and Rob Purcell). The tasks included:
    - project management
    - lead architect, Project Management Office
    - leading workstreams
    - agency engagement and relationships
    - network technical design
    - service design, governance – commercial design & GSN management unit establishment and Archives NZ Pilot.
  - the contract period was to commence from 1 September 2005, ending on 31 August 2006, and payment was to be at the rate of \$1,440.00 per day to a maximum of \$2,300,000.00 (excluding GST).
- 21 This contract did not go to the market under a tender process. The arguments in support of not doing so were set out in a memorandum dated 10 August 2005 [526635] from the Project Owner to the Project Sponsor, where the Project Owner wrote that much of the success for the project after a slow start was attributable to the work of Voco. He went on to write:
- “I-solutions/Michael Foley has built credibility and momentum on this initiative. Failure to secure Michael’s services going forward will risk project success and delay implementation significantly. Michael will assume the role of Project Manager.
  - The Project Manager is primarily accountable for the overall success of the project and has indicated a preference to engage his own 2IC/Project Administrator/PMO. Initial thoughts of the Project Owner employing the PMO function have been discarded, this carries an accountability management risk if the PMO function does not perform.
  - The Chief Architect and Solutions designer will also be retained for the duration of the project. Both people have established trust, credibility and agency confidence. Failure to secure their services going forward will risk project success and delay implementation significantly. Bringing in new people would likely result in re-litigation of design.
  - Agency implementation planners (two) with a combination of project management and network domain knowledge. These positions are considered critical by the Project Manager to ensure success of the project and as such would prefer to engage people he is confident can do the job.

The above appointments constitute the nucleus of the team required to implement the GSN service.

The daily rate being paid to I-solutions is commensurate with those in the wider market. It is planned that a contract be negotiated with I-solutions for delivery of the overall project, this will likely involve determination of what constitutes successful delivery by I-solutions and the withholding of up to 10% of payment until success criteria has been met.

The remaining positions, (between 1 and 14 roles) will be sourced following secondment, contestable, or closed tender processes depending on expertise needs and market availability.

### **Recommendations**

It is recommended that you;

1. Note that project resources will be sourced from a range of: State Services Commission, Agencies as secondments, I-solutions and other organisations following a contestable procurement processes.
  2. Note that if I-solutions are not retained to form the nucleus of the project there is significant risk of project delay and/or failure.
  3. Approve non-contestable sourcing of core project team from I-solutions.”
- 22 The Project Sponsor accepted this rationale and the contract did not go to tender. The amount of the contract sum was not clear from the memorandum.
- 23 A Contract Advice Form [542440] advising that the contract was awarded under closed tender was signed by the Project Sponsor. The Advice Form included a copy of the memorandum signed by the Project Sponsor. (The contract did not go to the market on a closed tender as only one supplier was approached and awarded the contract).

### **Variation 575812: First Variation [Contract Advice Form 576158]**

- 24 On 28 February 2006 a variation of the original substantive contract was recorded by way of variation letter signed on behalf of the Commission by the Project Sponsor.
- 25 The variation:
- agreed to pay Voco \$1,440.00 per day for each of its employees engaged in the project work (excluding GST)
  - deleted the name of one current Voco employee contractor and added two more contractors to the list of authorised Voco employees to work on the project.
- 26 A Contract Advice Form [576158], signed by the Project Sponsor was provided to Finance.
- 27 The effect of the variation was a change in personnel but it did not affect the cost, time or scope of the contract.

### **Variation 593716: Second variation [Contract Advice Form 593059]**

- 28 On 5 May 2006 a further variation was recorded by way of variation letter signed on behalf of the Commission by the Project Sponsor.

- 29 The variation:
- extended the end date of the contract from 31 August 2006 to 31 December 2006
  - increased the maximum payable from \$2,300,000.00 to \$2,751,000.00 (excluding GST)
  - created more flexibility of resourcing by Voco providing for other consultants to be deployed with permission of the Project Owner, together with the retention of the services of Michael Foley, Jon Wallace, Dudley Harris, Brendan Renall and Joe O'Neill for the full assignment.
- 30 A Contract Advice Form [593059] (for variations) was signed by the Project Sponsor for Finance. It recorded the variation as an extension to the timeline and the provision of more flexible resourcing by Voco (capped).

**Variation 672237: Third variation [Contract Advice Form 671789]**

- 31 On 20 December 2006 a further variation was recorded by way of variation letter signed on behalf of the Commission by the Project Sponsor.
- 32 The variation:
- extended the end date of the contract from 1 September 2006 to 30 April 2007 (the second variation of 5 May 2006 had extended the end date to 31 December 2006)
  - increased the maximum payable from \$2,751,000.00 to \$3,606,000.00 (excluding GST)
  - agreed a new milestone (Completion of GSN project by 30 April 2007).
- 33 The Contract Advice Form [671789] (for variations), signed by the Project Sponsor was supported by a memorandum from the Project Owner to the Project Sponsor dated 15 December 2006 [665752]. This memorandum advised that the reasons for delay in completion of the project was due to several events, including a late start from IBM, subsequent issues with delivery and a prolonged process to obtain Treasury approval for funding envelope. The Project Owner went on to write that as a consequence a range of contracts for organisations working on GSN had either been or were in the process of being extended to meet revised timeframes; Voco had been involved over each phase of the GSN from feasibility to business case and ultimately implementation; Voco had succeeded in gaining traction on this critical initiative where others had made limited progress and had brought to bear a range of business acumen, marketing and architectural skills for this initiative; the result had been a robust architectural design capable of meeting strategic rationale for project and a commercially feasible business model well underway to being implemented; and that Voco had achieved this despite some formidable obstacles. The Project Owner concluded that “any option to replace Voco would not only be inappropriate (ethically and commercially), but would compromise the initiative with resulting serious consequences to both SSC and Voco.”
- 34 In a section of the memorandum titled “Additional Implications” the Project Owner wrote it is “evident that to minimise risk, provide business and architectural continuity that we will likely need to have an additional contract with Voco and potentially other key contractors over the initial year of operation, preferably until long term organisation arrangements have been agreed.” And “extension of this contract does not change this situation, however it is relevant when mitigating some of the risks of extending the contract ... ”

- 35 The Project Owner then recommended that the Project Sponsor “Agree to sign contract extension for Voco to 30 April 2007” and asked him to note that “Voco will likely be invited to continue involvement in ongoing GSN program.”
- 36 A Contract Advice Form [671789] was signed by the Project Sponsor for Finance.

**Variation 705376: Fourth variation [Contract Advice Form 671789]**

- 37 On 11 April 2007 a further variation was recorded by way of variation letter signed on behalf of the Commission by the Project Owner.
- 38 The variation:
- extended the end date of the contract from 1 September 2006 to 30 June 2007 (the third variation of 20 December 2006 had extended the end date to 30 April 2007)
  - increased the maximum payable from \$3,606,000.00 to \$4,156,000.00 (excluding GST)
  - agreed a new milestone date for the completion of the GSN project of 30 June 2007.
- 39 A Contract Advice Form [671789] (for variations) was signed by the Project Sponsor but the advice form was not recorded under correct document management system (RDMS) number (which was the reference number for the third variation). The Contract Advice Form included the following detailed description:

**“Rationale for contract extension:**

The GSN Project has been extended as a result of delays in core deliverables of a key supplier. Note: these delays have been subject to extensive senior management commercial escalation. As a consequence, Voco’s work cannot be completed within the existing contract and an extension is required to align to completion of dependent tasks in the revised project plan. The additional costs of this extension are included in an updated GSN budget (which also reflects reduced and deferred supplier and operational costs arising from the same delays) that remains on track to complete within the approved GSN funding facility.

Voco retain the key-accountability for the overall delivery of the GSN Project.”

- 40 The result of this variation was that the contract was extended without change to scope but at an increased cost for the services of \$550,000.00 for an additional two months input.

**Variation 739824: Fifth variation [Contract Advice Form 737244]**

- 41 On 29 June 2007 a further variation was recorded by way of variation letter signed on behalf of the Commission by the Project Owner.
- 42 The variation:
- extended the end date of the contract from 1 September 2006 to 31 August 2007 (the fourth variation of 11 April had extended the end date to 30 June 2007)
  - increased the maximum payable from \$4,156,000.00 to \$4,687,000.00 (excluding GST)
  - agreed on a new milestone of 31 August 2007 for the completion of the GSN project.

- 43 A Contract Advice Form [737244] (for variations) was sent to Finance, going the reason for the extension as “the extension of the contract is required to correspond with project extended timeframes.
- 44 The result of the variation was that the contract was extended for a further two months without a change to scope but at an additional cost of \$531,000.00.

### ***Third Cluster: Operational phase***

#### **Variation 740876: Sixth variation**

- 45 On or about 11 July 2007 the Project Owner proposed a further variation to the Voco contract which would extend the Voco contract to 29 February 2008 and change the scope of the work to be undertaken by Voco. In the course of a discussion with a Commission solicitor, the Project Owner was advised that given the number of variations, a more prudent course would be to tidy up the contracting arrangements by executing a new formal variation contract that would pull together the implementation contract, the variations thereto and future obligations.
- 46 This proposed variation reflected the change in the nature of the programme, with the project phase coming to an end (project exit) and the operational phase commencing.

#### ***Contract 744247: Consolidation [Contract Advice Form 761965]***

- 47 As a result a new contract dated 24 August 2007 (the new variation contract) was entered into between the Commission and Voco. The contract was executed on behalf of the Commission by the Project Owner.
- 48 The new contract recited and carried over the provisions of the implementation contract and the variations thereto and recorded that an additional series of tasks would be undertaken to Voco to reflect the operational phase, which were to be completed by 31 August 2007.
- 49 The additional tasks were the development of a High Definition Video Conferencing business case and GSN internet testing and IP commercial support.
- 50 The essential terms of this new contract provided:
- that the parties would continue their contractual relationship for a further 18 months to 28 February 2009
  - that Voco would complete carry-over project activities from the implementation contract (and the variations thereto)
  - that the Commission had identified ongoing risks in successfully resourcing and transitioning to, and managing the GSN programme and delivering programme outcomes and in mitigation Voco would provide future services to the Commission of: GSN Programme Management and Programme Capability Outsource; the details of which were set out in Schedule to the contract
  - the additional tasks were to be completed by 31 August 2007
  - for the additional tasks Voco would be paid \$44,640.00 (excluding GST) notwithstanding any payment cap that had previously been agreed by the parties
  - for completion of the carry-over work between 1 September 2007 and 31 October 2007 Voco would be paid at the rate of \$1,440.00 per day to a maximum of \$73,400.00 (excluding GST)
  - for the future operational services Voco would be paid as follows:
    - GSN Programme Manager Outsource 0.6 FTE @ \$20,000.00 per month (excluding GST)
    - Programme Capability Outsource 6.1 FTE @ \$126,146.00 per month (excluding GST)

- 51 The result was an increase in funding by \$2,748,668.00 with a change in time and scope.
- 52 A Contract Advice Form [761965] (for variations) was sent to Finance which Finance treated as a further variation.

**Variation 884066: Seventh variation**

- 53 On 28 March 2008 a further variation was made to the new variation contract and recorded by way of variation letter signed on behalf of the Commission by the Project Owner.
- 54 The variation amended the background summary to the contract variation of 24 August 2007 by terminating Voco from providing GSN Programme Management services from 1 July 2008 but with Voco to continue to provide Programme Capability Outcome under the new variation contract.
- 55 There does not appear to have been a Contract Advice Form recording the variation sent to Finance, presumably because the variation did not appear to have created any increase in financial obligations to the Commission, (although by varying the contract this was a requirement under Commission policy).
- 56 The variation extinguished the provision for payment of \$20,000.00 per month for the GSN Programme management.

**Variation 1011964: Eighth variation**

- 57 On 26 September 2008 a further variation was recorded by way of variation letter signed on behalf of the Commission by the manager of the new Government Technology Services (GTS) unit.
- 58 The variation:
- required Voco to develop a technical solution plan and costings to support stage 2 GSN Adaption business case
  - required Voco to produce a five year GSN Technology Plan for the GSi
  - provided for the continuation of G-Wan services
  - agreed that the work under the variation would be carried out within existing FTEs
  - agreed that Tina Sutton would now be the Commission's liaison person.
- 59 There does not appear to have been a Contract Advice Form recording the variation sent to Finance, presumably because the variation did not appear to have created any increase in financial obligations to the Commission, although by varying the contract this was a requirement under Commission policy.

**Variation 995713: Ninth variation**

- 60 On 16 October 2008 a further variation to the new variation contract was recorded by way of variation letter signed on behalf of the Commission by the Manager, GTS.
- 61 The variation:
- confirmed the changes in the terms of the contract made in previous variations
  - varied the scope of further work and described this work in the schedule attached to the letter
  - agreed that

- GSN services being carried out by two Voco contractors would be reduced
  - a portion of the Voco work would be redirected to carry out GSN services in support of the Ministry of Health's Connected health project
  - set out a table of service description, the date by which the services were to be completed, and the agreed payments for each of the services listed.
- 62 The variation included formally recording in the table the services and payment for four separate contractual arrangements that had been entered from April 2007 (and not recorded as being variations to the consolidation contract) to be completed by 28 February 2009. These contractual arrangements were set out in a series of four documents called "Terms of Reference" and executed on behalf of the Commission by a contractor operating within the Commission. The contractor was not authorised to bind the Commission, although the work to undertaken with the approval of the Manager, GTS (a Commission employee holding the appropriate delegation).
- 63 The total amount paid under these contracts/variations was \$6,751,180.45.

**Fourth cluster: 10 individual contracts with Voco for specific consulting services**

**Contract 563716: To write business cases [Contract Advice Form 40507]**

- 64 Between 17 November and 16 December 2005 the Project Owner contracted Voco to write business cases for the Commission's 'e-Projects team'.
- 65 The services to be provided by Voco were to interview specified people and document in agreed SSC/Treasury templates two business cases to increase SSC baseline
- Shared Workspace Operational Funding, and
  - SSC ICT Capability Enhancements.
- 66 The contract price was for \$15,000 with a cap of \$20,000.00. The total amount paid under the contract was \$15,000 (GST exclusive).
- 67 After completion of the work it was discovered that no formal written agreement had been executed and no consultant/Contract Advice Form had been completed and referred to Finance. Acting on the advice of Legal, the Project Owner prepared a memorandum to the Project Sponsor explaining the oversight. The Project Sponsor signed the memorandum, retrospectively authorising the work.
- 68 A Contract Advice Form [288715] was then completed for Finance which included the notation that that no current SSC employee was able to undertake the work, the work was of a technical nature and Voco was a preferred provider.

**Contract 619199 [Contract Advice Form 619226]**

- 69 On 3 August 2006 Voco was contracted to undertake an assignment under a letter of engagement dated 12 July 2006 signed on behalf of the Commission by the Project Owner.
- 70 The assignment:
- required Voco to undertake a piece of research on a set of consistent messages and statements for a "Network Alignment" document. The research was to cover the description, the characteristics and intent behind each network initiative; was intended to provide readers with a common, documented understanding of the purpose of each network
  - was to be completed before 30 June 2006
  - provided for a daily contract rate of \$1,500.00 to a maximum of four days with a cap of \$6,000.00.
- 71 The contract payment for the work was \$6,000.00 (GST exclusive).
- 72 The Contract Advice Form was signed, stated that SSC had no employee who can do the work and that no tender process was undertaken because the contractor (Voco employee Paul Fagan) was familiar with the details of the four network initiatives being documented and had the required technical expertise.
- 73 Due to the amount of the assignment there no requirement to tender or refer the contract to the Commission's legal section.

### **Contract 677653 [Contract Advice Form 677740]**

74 On 17 January 2007 Voco was contracted to undertake an assignment under a letter of engagement dated 13 December 2006 signed on behalf of the Commission by the Project Owner.

75 The assignment:

- required Voco to provide consultancy, advice and coordination of wider government network initiatives, within the context of the New Zealand Digital Strategy
- the work was to be undertaken between mid January (commenced 15 January) and the end of June 2007
- the contract payment was based on a daily rate of \$1,440.00 to a maximum of \$15,000.00 (excluding GST) but with the provision that this could be increased in the case of unforeseen circumstances.

76 The payment made for this work was \$21,297.96 (GST exclusive).

77 The Contract Advice Form signed by the Project Sponsor, recorded that there was no current Commission employee who could do the work and that Voco (Michael [Foley]) was currently contracted to do similar work and is familiar with SSC policies and processes. The form also recorded that Voco was a preferred provider and the reason for the selection being the consultant's expertise in the subject.

### **Contract 825374 [Contract Advice Form 827716]**

78 On 11 December 2007 Voco was contracted to undertake an assignment under a letter of engagement signed on behalf of the Commission by the Project Owner.

79 The assignment:

- required Voco to provide expert advice regarding GSN services and the positioning of those services relative to the Shared Services Organisation, including:
  - Participation in planning meetings as directed by the Commissioner
  - QA of business plans as directed by the Commissioner
- would be carried out between 1 November and 31 March 2008
- required Voco to provide the services of Jon Wallace
- the contract payment was based on a daily rate of \$1,750.00 to a maximum of six days and a total sum not exceeding \$10,500.00 (GST exclusive)
- the total payment made under this contract was \$5,600.00 (GST exclusive).

80 The Contract Advice Form was signed, stated that the Commission did not have a current employee who could do the work but again referred to Voco being a preferred provider with specialist technical expertise.

### **Contract 850043 [Contract Advice Form 827716]**

81 On 18 February 2008 Voco was contracted to undertake an assignment under a letter of engagement dated 13 February 2007 signed on behalf of the Commission by the Project Owner.

82 The assignment:

- required Voco to provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and working parties, and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects under a range of topics relating to GSN
- would be carried out between 7 January and 28 February 2008
- required Voco to provide the services of Jon Wallace, Michael Foley and Dudley Harris
- the contract payment was based on a daily rate of \$1,750.00 to a maximum of eleven days and a total sum not exceeding \$18,725.00 (GST exclusive)

83 The total payment made under this contract was \$18,725.00 (GST exclusive).

84 The Contract Advice Form signed by the Project Sponsor stated that the Commission did not have a current employee who can do the work and again referred to Voco being a preferred provider with the specialist technical expertise.

**Contract 871720 [Contract Advice Form 827716]**

85 On 18 March 2008 Voco was contracted to undertake an assignment under a letter of engagement dated 17 March 2008 signed on behalf of the Commission by the Project Owner.

86 The assignment:

- required Voco to provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and working parties, and to the Project Manager, Demand Aggregation and the Manager, e-Government Projects
- required Voco's further participate in the preparation of Cabinet papers and other communications, which was of the specific range of services/topics to be provided under the previous contract (Contract 850043)
- would be carried out between 1 March and 31 March 2008
- required Voco to provide the services of Jon Wallace, Michael Foley and Dudley Harris
- the contract payment was based on a daily rate of \$1,750.00 to a maximum of eleven days and a total sum not exceeding \$19,250.00 (GST exclusive)
- the total payment made under this contract was \$19,385.11 (GST exclusive).

87 The Contract Advice Form had the same reference number as under the previous assignment and stated that there was no current Commission employee who can do the work and again referred to Voco being a preferred provider with the specialist technical expertise.

**Contract 894008 [Contract Advice Form 871710]**

88 On 16 April 2008 Voco was contracted to undertake an assignment under a letter of engagement signed on behalf of the Commission by the Project Owner.

89 The assignment:

- required Voco to provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and creation of budget sensitive material around the broadband initiative

- would be carried out between 1 April and 30 April 2008
  - required Voco to provide the services of Jon Wallace, Michael Foley and Dudley Harris
  - the contract payment was based on a daily rate of \$1,750.00 to a maximum of eleven days and a total sum not exceeding \$19,250.00 (GST exclusive)
  - the total payment made under this contract was \$18,758.89 (GST exclusive).
- 90 The Contract Advice Form stated that there was no Commission employee who can do the work and referred to Voco being a preferred provider (and to refer to #898191 for rationale) with the specialist technical expertise.
- 91 Document 898191 is a memorandum from the Project Owner to the Commission's Chief Legal Advisor dated 15 April 2008. The purpose of the memorandum was to outline the rationale for contracting Michael Foley [Voco] for provision demand aggregation advice up to \$80,000 without a contestable process.
- 92 The memorandum:
- advised that the work had commenced in February and continued through March and now April and further advised that it may well continue through to the end of May
  - provided a description of the work
  - advised that Michael Foley was initially selected because of his detailed knowledge of the Government Shared Network, KAREN network and health sector
  - that when he was first contracted it was expected that the work would be less than \$20,000 but as a consequence of Ministers communicating their preferences a range of additional options has required exploration. This has required significantly more effort than envisaged, working with stakeholders from Treasury, DPMC, MED, Health, Education and REANZ (KAREN)
  - advised that while it would be normal practise to issue an RFP at this time this is not appropriate given both vested knowledge and budget sensitivity of the work being undertaken and accordingly I plan to retain Michael Foley in this advisory role until such time as budget decisions have been announced. At that time depending on volume of residual work a decision will be made regarding future provision of advisory services
  - advised that it is expected that a person will resign in the next 6-8 weeks and that if this eventuates Michael Foley may well have to provide transition management of the demand aggregation initiative until we obtain a replacement.
- 93 The Chief Legal Advisor advised the Project Owner by email dated 18 May 2008 that under the circumstances an exception to internal procurement/contracting policy could properly be made.

**Contract 924313 [Contract Advice Form 924378]**

- 94 On 26 May Voco was contracted to undertake an assignment under a letter of engagement dated 21 May 2008 signed on behalf of the Commission by the Project Owner.
- 95 The assignment:

- required Voco to provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and creation of budget sensitive material around the broadband initiative
- would be carried out between 1 May and 30 May 2008
- required Voco to provide the services of Jon Wallace, Michael Foley and Dudley Harris
- the contract payment was based on a daily rate of \$1,750.00 to a maximum of ten days and a total sum not exceeding \$17,500.00 (GST exclusive) but with provision to extend this in the case of unforeseen circumstances.

96 The total payment made under this contract was \$19,250.00 (GST exclusive).

97 The Contract Advice Form signed by the Project Sponsor stated that there was no current Commission employee who could do the work and referred to Voco being a preferred provider with the specialist technical expertise.

**Contract 946446 [Contract Advice Form 946521]**

98 On 25 June 2008 Voco was contracted to undertake an assignment under a letter of engagement dated 23 June 2008 signed on behalf of the Commission by the Project Owner.

99 The assignment:

- required Voco to provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and creation of budget sensitive material around the broadband initiative
- would be carried out between 1 June and 30 June 2008
- required Voco to provide the services of Jon Wallace, Michael Foley and Dudley Harris
- the contract payment was based on a daily rate of \$1,750.00 to a maximum of ten days and a total sum not exceeding \$17,500.00 (GST exclusive) but with provision to extend this in the case of unforeseen circumstances.

100 The total payment made under this contract was \$16,100.00 (GST inclusive)

101 The Contract Advice Form, signed by the Project Sponsor stated that there was no current Commission employee who could do the work and referred to Voco being a preferred provider with the specialist technical expertise.

**Contract 951931 [Contract Advice Form 951938]**

102 On 3 July 2008 Voco was contracted to undertake an assignment under a letter of engagement dated 1 July 2008 signed on behalf of the Commission by the Project Owner.

103 The assignment:

- required Voco to provide industry domain expertise and GSN experience to the Public Sector Demand Aggregation Steering Group and creation of budget sensitive material around the broadband initiative
- would be carried out between 1 July and 31 July 2008

- required Voco to provide the services of Jon Wallace, Michael Foley and Dudley Harris
- the contract payment was based on a daily rate of \$1,750.00 to a maximum of ten days and a total sum not exceeding \$17,500.00 (GST exclusive) but with provision to extend this in the case of unforeseen circumstances.

104 The total payment made under this contract was \$19,250.00 (GST exclusive).

105 The Contract Advice Form signed by the Project Sponsor stated that there was no current Commission employee who could do the work and referred to Voco being a preferred provider with the specialist technical expertise.

106 The total amount paid for the 10 additional contracts was: \$159,666.96 (GST exclusive).

## **Annex 6**

### **Summary of rules and guidelines on procurement and contracts**

#### ***Procurement: A Statement of Good Practice (Office of the Auditor-General)***

June 2001

- Agencies should have clear and unambiguous procurement policies
- Employees should declare any personal interests which may affect or could be perceived to affect their impartiality in any aspect of their work
- When assessing proposals, agencies should be aware of the “whole of life” cost
- A value for money approach should be adopted
- Robust tender evaluation methods should be adopted
- Tendering is the preferred method of procurement – open tendering most of all
- Agencies should ensure that terms of the contract are adhered to, and all parties understand their obligations
- Contract variations
  - Formal records of any need for change should be kept
  - Full implications of the change should be considered
  - Cumulative effect of multiple variations should be considered
  - Variations should not significantly alter the original scope of the contract

#### ***Government Procurement in New Zealand – Policy Guide for Purchasers (Ministry of Economic Development)***

July 2002

- Overall principle of best value for money over whole of life;

The Government now requires all departments to:

- Notify the New Zealand Industrial Supplies Office (NZISO) of intention to contract for supplies of goods or services valued at over \$50,000 (excluding GST), whether by open or closed tender;
- Consult the NZISO when reviewing preferred supplier lists for purchases over \$50,000 (excluding GST); and
- Notify the NZISO of any intended purchases which are to be the subject of a public call for tender or registration of interest. These are posted on the NZISO’s “Government Electronic Tenders Service” (GETS), in addition to other advertising.
- Publish notices of purchase contracts awarded over \$50,000 (excluding GST), at least quarterly, on the Internet.
- In principle, the advertising of an open request for tender should be the preferred method for substantial purchases, as it offers all interested domestic and other suppliers fair and equitable opportunity, and allows evaluation of a range of competing offers in the assessment of best value for money. At the same time, the method should be appropriate to the market for the particular goods or services, and the circumstances of the

procurement. These considerations may mean that open call for tender is not practicable or cost-effective.

### ***Mandatory Rules for Procurement by Departments (Ministry of Economic Development)***

May 2006

- These Rules must be applied by government departments to contracts valued at or above NZ\$100,000
- Departments must have in place policies and procedures to eliminate any potential conflict of interest on the part of those engaged in or having influence over a procurement.
- Departments must accord all potential suppliers equal opportunity and equitable treatment on the basis of their financial, technical and commercial capacity.
- Departments must make procurement decisions on the basis of value for money of goods and services to be supplied, and not on the basis of their place of origin or the degree of foreign ownership or affiliation of the supplier.
- Departments must not seek or accept advice to be used in the preparation or adoption of any technical specification for a particular procurement from a person that may have an interest in that procurement, if to do so would prejudice fair competition.
- Departments must publish on GETS a notice inviting interested suppliers to submit a tender or apply to meet conditions of participation in the procurement process. The notice must be accessible on GETS during the entire period established for tendering or submission of an application (whether or not also published in other print or electronic media).
- A department may establish for continuing use a list of suppliers registered or qualified to participate in a procurement process.
- A department using such a list must:
  - a. make the current updated list of registered or qualified suppliers publicly available;
  - b. ensure that suppliers may apply to join the list at any time; and
  - c. include all qualifying applicants within a reasonable period of time, taking into account the conditions for participation and the need for verification.
- The department must make available continuously on GETS a notice inviting interested suppliers to apply for inclusion on the list. The notice must include:
  - a. a description of the goods and services for which the list of suppliers may be used; and
  - b. the conditions to be satisfied by suppliers for inclusion on the list of registered or qualified suppliers.

### ***Awarding of Contracts***

- Departments must receive, open and evaluate all tenders under procedures that guarantee the fairness and impartiality of the procurement process.
- Departments must consider for award only those tenders which, at the time of opening, conform to the essential requirements of the notice of intended procurement or tender

documentation and are submitted by a supplier who complies with the conditions for participation.

- Unless the department determines that it is not in the public interest to award a contract, it must award the contract to the supplier that has been determined to be fully capable of undertaking the contract and whose tender is determined to offer the best value for money in terms of the essential requirements and evaluation criteria set forth in the tender documentation.
- A department must not cancel a procurement or terminate or modify an awarded contract in order to circumvent these Rules.

### ***Audit Requirements***

- Departments must keep records documenting all their procurement which are readily accessible for the purposes of audit of compliance with these Rules.

## **SSC Internal Guidance**

### ***Consultants Policy – May 2004***

- Consultants should only be used to undertake an assignment in situations where:
  - The work requires expertise not available at the time from the SSC
  - It is not prudent for the SSC to employ someone with that specialist capability in-house
  - It is not possible or cost effective to set aside existing work and complete the project in-house
  - The use of consultants can lower costs
- Consultants should not be:
  - Used to carry out routine SSC business
  - Given any authority to make commitments on behalf of the SSC
  - The nominated SSC contact person in any contracts
  - The contact person on any departmental papers to the Ministers
- Consultants cannot act under any delegation from the State Services Commissioner
- Deputy Commissioners or equivalent must approve all contract variations, and provide a copy of that decision to Finance prior to the consultant starting work.
- Legal must draw up all contracts worth more than \$10,000 (excl GST).
- If the estimated cost of a consultancy is expected to be in excess of \$50,000 (excl GST) a formal tendering process must be used to select the consultant.
- If the estimated cost of a consultancy is expected to be \$10,000 or less (excl GST) then a formal contract or letter of agreement must be entered into.
- If the estimated cost of a consultancy is expected to be more than \$10,000 or less (excl GST) then a formal contract must be entered into, through the Legal Branch.

### ***Consultants Guidelines (including Leased Executives) – effective May 2006***

- If the estimated cost of consultancy is expected to be \$20,000 or less (excluding GST) then the person with the appropriate financial delegations (i.e. the relevant budget holder or their manager) signs the contract. The relevant Deputy Commissioner or equivalent must sign the consultant advice form. If the estimated cost of consultancy is expected to be more than \$20,000 (excluding GST), the relevant Deputy Commissioner or equivalent must sign the contract and the consultant advice form.
- If the estimated cost of consultancy is expected to be \$20,000 or less (excluding GST), then a direct approach can be made to individual consultants or firms known to have the necessary skills and expertise to complete the assignment.
- If the estimated cost of consultancy is expected to be between \$20,000 and \$50,000 (excluding GST), then at least two written quotes should be sought.
- If the estimated cost of consultancy is expected to be more than \$50,000 (excluding GST), then the assignment must be formally tendered. This can either be by way of advertised tender (i.e. the assignment is advertised and any individual or firm can

respond) or selected tender (i.e. a range of individual consultants or firms known to have the necessary skills and expertise to complete the assignment are invited to tender).

- The Industry Capability Network (ICN) must be notified of the SSC's intention to contract any goods or services worth more than \$50,000 (excluding GST), regardless of whether it is intended to use an advertised or selected tender
- If the estimated cost of consultancy is expected to be \$10,000 or less (excluding GST), a letter of agreement will suffice
- If the estimated cost of consultancy is expected to be more than \$10,000 (excluding GST), a formal contract must be entered into.
- Regular reviews at previously agreed key stages of the consultancy are essential. This could be by way of progress meetings, reviewing draft reports, or other milestones. Reviews should address the timeliness and quality aspects of the project, and any concerns must be discussed with the consultant as they are raised. Notes should be retained (the consultant should be advised of this at the outset), and used as part of the post-consultancy evaluation.

### ***Procurement Policy – November 2006***

- For purchases costing less than \$20,000, a direct approach can be made on behalf of the Commissioner to providers known to have the ability to provide the goods and/or services required. If the provider is an outside lawyer or law firm, the direct approach must be made through Legal.
- Commitments to purchase can only be made by those SSC employees with delegated authority to commit expenditure on behalf of the Commissioner. Commitments to purchase cannot be made by consultants or contractors.
- Where a purchase could exceed \$20,000 by a small amount, the Chief Legal Advisor has discretion to determine that a tender process may not be required under the circumstances.
- A tender process (either closed or open) must be used for purchases costing \$20,000 or more, but less than \$80,000 (excluding GST). If a closed tender is used, at least three potential providers known to have the ability to provide the goods or services required must be invited to submit a tender.
- Where an exclusion, exemption, or exception to this tendering requirement may be applicable, please consult with Legal.<sup>2</sup>
- Purchases costing \$80,000 (excluding GST) or more A formal open tendering process<sup>3</sup> must be used to select the provider, and the Industry Capability Network (ICN) must be notified of the intention to purchase by open tender. The intended procurement must be advertised on the Government Electronic Tenders Service (GETS) until tender submissions close. The notice period must allow potential suppliers sufficient time to prepare and submit a conforming tender, and must in no case be less than 10 working days.

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<sup>2</sup> While the Mandatory Rules (and their exclusions, exemptions and exceptions) apply to purchases costing \$100,000 or more, the Commissioner has determined that the Rules shall apply to purchases costing \$80,000 or more, as this will provide some flexibility if contingencies arise or subsequent variations are required, and therefore help prevent an inadvertent breach of the Rules. The Commissioner has also determined that the Rules' exclusions, exemptions and exceptions may be applied, in appropriate cases, to purchases costing less than \$100,000. SSC Legal must be consulted with respect to the applicability of an exclusion, exemption or exception.

<sup>3</sup> The formal tendering process could either be an open single stage tender or a multi-stage tender comprising an open expression of interest process followed by a closed tender. *See also* footnote 2.

- Where an exclusion, exemption, or exception to the Mandatory Rules may be applicable, please consult with SSC Legal.<sup>4</sup>
- SSC Legal will draft all RFPs/RFTs, using a “Request for Proposal/Tender - Facts required for RFPs/RFTs” form.

Consultants should only be used to undertake an assignment in situations:

- Where the use of consultants can provide cost savings or result in a higher quality of service than can be provided from using SSC staff.
- Where the work requires expertise or skills not available within the SSC, and it is not feasible or desirable to gain those skills through training existing staff or recruitment.
- Where it is important for the SSC to demonstrate objectivity or independence. For example, to evaluate, review, critique, or audit in-house work, or to demonstrate freedom from bias.
- Where work needs to be undertaken quickly, and it is not possible or cost-effective to set aside existing work. In such situations, consultants may be engaged to help expedite business processes or to complete projects more quickly.

Consultants should not be engaged:

- Where there is an expectation that a conflict of interest<sup>5</sup> could develop.
- To resource the SSC’s core, ongoing functions or activities.
- To undertake tasks which the SSC could more cost-effectively and appropriately resource itself.

The SSC must retain its decision-making role; therefore consultants should only be used in an advisory role. Consultants cannot be given any authority to make commitments on behalf of the SSC, or be the contact person on any papers to the Minister.

- All variations to contracts, regardless of value, must be approved by SSC Level 1 or Level 2 personnel (the Commissioner, the Deputy State Services Commissioner, a Deputy Commissioner, the Chief Legal Advisor, the General Manager Government Technology Services, or anyone to whom the Commissioner has delegated Level 2 functions and powers), who will ensure that the variation is documented on a “Consultant/Contract Advice Form”, which is then provided to the Chief Financial Officer.
- Any variation to the terms of a contract must be entered into before the initial contract expires. SSC Legal will provide advice and/or draft variations, based on the information provided in the “Facts required for variation of contracts” form.
- SSC staff involved in any procurement process must declare any personal interest and/or previous professional interest which may affect, or could be perceived to affect their impartiality in making decisions associated with that procurement process.
- The SSC staff member approving the procurement of the goods and/or services is responsible for ensuring that the contract is monitored.

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<sup>4</sup> See footnote 2.

<sup>5</sup> More information on Conflicts of Interest is available on SSC’s intranet in the Integrity and Conduct Toolkit.