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INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE

Members present:

Mr J Pearce MP (Chair)
Mr CD Crawford MP
Mr S Knuth MP
Mrs BL Lauga MP
Mrs AM Leahy MP
Mr AJ Perrett MP

Staff present:

Dr J Dewar (Committee Secretary)
Ms M Telford (Acting Committee Secretary)

PUBLIC BRIEFING—INQUIRY INTO LOCAL GOVERNMENT PROCUREMENT

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 10 MAY 2017

Brisbane

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Committee met at 8.27 am

BARRIE, Mr Max, Director, Program Implementation and Review, Local Government and Regional Services, Department of Infrastructure, Local Government and Planning

PARTON, Ms Kathy, Deputy Director-General, Strategy Governance and Engagement, Department of Infrastructure, Local Government and Planning

CHAIR: Good morning everybody. I declare open the public briefing by the Department of Infrastructure, Local Government and Planning on local government procurement matters. I thank you both for your attendance here today. I am Jim Pearce, the member for Mirani and chair of the committee. The other committee members here with me today are Ms Ann Leahy, the deputy chair and member for Warrego; Mr Craig Crawford, the member for Barron River; Mr Shane Knuth, the member for Dalrymple; Mrs Brittany Lauga, the member for Keppel; and Mr Tony Perrett, the member for Gympie.

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Mr Barrie Yes, thank you, Mr Chair. The Local Government Act and its regulation, the City of Brisbane Act and its accompanying regulation prescribes the legislative framework for local government tendering and contracting for the supply of goods and also for the disposal of assets, including land. Both the Local Government Act and the City of Brisbane Act prescribe that local governments should establish a system of financial management that includes contract and tendering using sound contracting principles when entering into a contract. If I make references to the legislation, it will be under the Local Government Act and the Local Government Regulation, because those references are somewhat mirrored in the City of Brisbane Act, rather than repeating that.

CHAIR: Yes.

Mr Barrie Thank you. Under section 104(3) of the Local Government Act, the sound contracting principles are that local governments must seek value for money; undertake open and effective competition; develop local industry and business; pay heed to environmental protection; and, lastly, demonstrate ethical behaviour and fair dealing. With those contracting principles, there is no weighting prescribed on the five principles. How local governments weight those principles when looking at contracts is entirely up to the local governments themselves. I will speak a little bit more about local industry shortly.

There are two procedural approaches under both of the acts—strategic contracting procedures and default contracting procedures. Last year, the Auditor-General reported that there was \$3.3 billion in expenditure on materials and services in the local government sector. The vast majority of that expenditure would come under the contracting procedures that are detailed in the legislation. So it is quite a significant chunk of their business.

Strategic contracting procedures allow local governments to adopt their own procedures and pay attention to risk management, giving them flexibility. They write their own annual contracting plan. They write their own contracting manual. That is a very flexible system but, at the moment, it is adopted only by the Brisbane City Council and, to a lesser extent, the Gold Coast City Council. All of the other 75 local governments use the default contracting procedures, which I will speak to now.

The default contracting procedures are in chapter 6 part 3 of the Local Government Regulation. They provide a very structured, detailed and prescriptive approach to contracting activities and, as I said, are used by the vast majority of local governments. The default approach really specifies what Brisbane

local governments must do before they enter into medium and large size contracts. A medium contract has a value of more than \$15,000 and less than \$200,000. A large contract has a value of \$200,000 and above. Essentially, under \$15,000, local governments can make their own policies about how they procure goods and services under a value in a single contract of \$15,000 or less. Written quotes are required for medium sized contracts—so up to \$200,000 written quotes are required. Over \$200,000, it must go to tender.

There is no sliding threshold for local governments. Those thresholds apply whether you are the smallest or the largest. The rationale for that is that \$200,000 worth of goods is the same in Brisbane as it is in Mount Isa, or Kowanyama, or the Torres Strait. However, I will speak a little more on those thresholds shortly.

There are exceptions to going to those quotes and tendering. Under the Local Government Act, councils can establish an approved contractor list, which really is approved contractors to deliver services. So it is about hiring labour. They can also have a register of prequalified suppliers, which includes all goods and services, or they could have a preferred supplier arrangement, which really deals with large-volume, very specialised contracts.

Also, Local Buy, which is established under the Local Government Association of Queensland Inc., can establish a register of prequalified suppliers that councils can access. Other exceptions to the default contracting procedures are generally when a council believes that there is only a single supplier available. Quite often, that might be the case in smaller local governments. It may be that they believe that a single supplier is available if the goods are of a significantly specialised nature or, in fact, if there is a genuine emergency. You will find that, after natural disasters, local governments are wanting to implement recovery immediately. In those cases, they would be able to declare a genuine emergency and not worry about contracting and tendering, but would have to risk manage those contracts.

A local government can enter into contracts for sale of what is described under the legislation as the disposal of a valuable non-current asset. The often used provision here is for the sale of land, or the disposal of land. Local governments must tender, or auction. They do not have any option to use the strategic approach. They must use the thresholds for tendering and auctions because of the risk and often the contentious nature around the sale of land. They can seek a ministerial exemption from the Minister for Local Government. That is under section 236(1) (f) of the Local Government Regulation. That is quite common. In our department we get those quite often—generally from smaller local governments, but not always.

As I mentioned earlier, there are specific provisions under the Local Government Act and regulation for the LGAQ to establish subsidiary companies. I mentioned Local Buy. When the LGAQ wants to put one of its own subsidiaries on a preferred supplier list established by Local Buy, it has to seek the approval of the minister as a safeguard. That is a bit hard to explain, I know, but if there were another subsidiary company of the LGAQ that wanted to go on a preferred supplier list for Local Buy, the LGAQ would have to seek the minister's approval before putting that company on its own list. Those lists generally have preferred suppliers—businesses from the private sector—established by Local Buy. I want to move on to the Auditor-General's report, if I may, if I have time?

CHAIR: Yes.

Mr Barrie In the most recent Auditor-General report into local government for 2015-16—that is report No. 13 for 2016-17—the Auditor-General identified deficiencies in 17 local governments in respect to contracts and tendering. In looking at those deficiencies, they are about internal controls in manual activities, such as invoicing—very much administrative in nature. The Auditor-General did not comment on any systemic issues in local government that he had identified in that financial year's audits in respect of contracts and tendering.

Additionally, we liaise with the Auditor-General regularly about his forward program of work for performance audits. The Queensland Audit Office has advised that any audit of local government procurement is not on its forward audit program in the foreseeable future. However, I can only reiterate what I have been told there. I do not want to comment too much more on that, because that could change.

Lastly, with regard to the jurisdictional comparison, we had a look at the New South Wales legislation. In a sense, it is very similar to Queensland's. It has principles under the act, but their regulation is much more specific and prescriptive than what we have. It is much like our former 1993 Local Government Act and regulation, which was very prescriptive around those things, as it was with most things.

The approach that was taken in 2009 was to streamline contracts and tendering for councils, which brings me to my last point. As the department, we undertake reviews of components of the local government legislation from time to time. We commenced a review of procurement provisions back in 2016. We had the benefit of consultation with local governments in 2016. We got a broad range of submissions from local governments themselves, from Local Buy and from Local Government Managers Australia identifying areas for improvement.

The overwhelming feedback was that councils want to see the thresholds for contracts increased. They have not increased for some time. Some councils made the suggestion of relating the value of contracts in a formulaic way to their net rates and charges, for example—so the more revenue a council earned, the higher the threshold. The other major item of feedback was that councils wanted to see a streamlining of those provisions in the act that I alluded to. There are preferred contractors lists, preferred supplier arrangements, and prequalified suppliers and councils are saying that, essentially, they all mean the same thing. To establish those lists you have to go through the same set of procedures in tendering and issuing contracts. So they would like to see those provisions simplified. Many councils have said that you could do it with one arrangement with having a bit more flexibility in the way that they do it.

This is rather minor, but a lot of them wanted to use electronic media and their websites to advertise tenders. Under the current legislation, it prescribes newspapers circulating in the area. It is just modernising their practice. Whilst the feedback indicated that there were some amendments that councils would like to see to streamline the provisions, there was no call for a complete overhaul of the procurement provisions through that consultation. To finish off, the department is currently considering those proposed amendments. We have not briefed the minister as yet, but we will be doing so in the near future. Thank you.

CHAIR: Excellent. Thanks very much for that. One question that has always been in my mind when we talk about the prequalified supplier is whether there is anything in place to test the integrity of the qualified supplier to see if there are any links back to the council or any family involvement so that there is no conflict of interest?

Mr Barrie: Not under the local government legislation, Mr Chair. Under the Australian accounting standards there is a new provision which has just come in—forgive me, because I am not an accountant—that I believe relates to disclosure of related parties. If there are any relationships between a local government and a supplier—and inevitably there are, particularly in smaller communities—then they are now required to disclose those relationships through their disclosure of related parties in the financial statements and the annual report of the local government. I think this financial year is the first year that is occurring.

Apart from that, councillors and senior staff have to maintain registers of interest. If they have any interest in a company whatsoever that has to be disclosed on the register of interest. If a councillor or a staff member of the council has an interest in a company that wants to tender for work, there are provisions under the Local Government Act. Mostly that will constitute a material personal interest for the councillor, and under the Local Government Act they are prevented from participating in the meeting or the motion to debate the contract, the appointment or whatever it may be.

Ms LEAHY: I want to explore this a bit more so I can fully understand. Written quotes for medium sized contractual arrangements, so that is from \$15,000 to \$200,000?

Mr Barrie: Yes.

Ms LEAHY: That is a separate system to if a supplier of any sort of service was on the approved contractor list, so councils would go one way or the other; is that right?

Mr Barrie: That is correct; however, to establish the preferred supplier list or the contractors list for a contract valued at between \$15,000 and \$200,000 they have to get quotes. If the preferred supplier list is for contracts which will largely be over \$200,000, in establishing those lists they have to follow the provisions. The preferred supplier list does not enable councils to bypass those thresholds; it just means they only need to do it once. Usually these lists have a life of a couple of years with an option to extend for a couple of years, so there is no diminution of accountability in establishing those lists.

Ms LEAHY: Can you explain to me how a provider of a service might get on the approved contractor list or the preferred supplier arrangement with a council?

Mr Barrie: What a council would typically do is advertise in its newspaper saying that it wishes to establish a contractor list for mowing parks and gardens, let's say. If it is a small council the value of that contract is likely to be less than \$200,000, so to establish that list it would ask suitably qualified contractors to submit a quote for work. That quote could be for a period of time, or it could ask them

to quote on an hourly rate or whatever it might be. That is entirely up to the council. Those quotes would come in and then the council would assess the bona fides of those submitting the quotations. Generally, if they meet the criteria that the council has set, and that may be the experience they have with larger contracts—and I will speak about that in a moment—or they may have a history of their work and all sorts of things which may determine whether they should go on the list, generally if a number of contractors want to get onto that contractors list, as long as they meet the criteria they all go on. The council can then choose from time to time who it wants to use and they may share it around. It is really the same process; it just means that instead of selecting one contractor to undertake the tender, you have a list.

For larger contracts over \$200,000 it is the same process with advertising, except that there will be tenders required which are generally more detailed. They are generally for more complicated or complex work, but the process is exactly the same. They would assess the tenders and then, if those tenderers meet the criteria the council had set for that particular project or contract, they would go on the list.

Ms LEAHY: There is a process before council even has work to do to get those service providers on that list?

Mr Barrie: Yes.

Ms LEAHY: I am a little bit puzzled. I have been reading my local newspaper, and I might read a little bit from a letter to an editor. This refers to a consultancy firm that was asked to review some rates and rating policy. The cost of the consulting was about \$31,000. I will just read to you what was in this letter to the editor. 'At the midmorning meeting the councillors suggested employing a rates consultant. The council went into closed session to discuss if the quote for the rate review was called for. The council employees rang the group for the quote. The quote was received midafternoon and then immediately accepted by the council as voted on and passed.' This council has a purchasing policy and a five-star rating program. The letter continues, 'If you're a local where the purchasing amount is above \$1,000, a number of quotes are required and it takes two or three weeks for a council to consider.' I am really confused because that is over the threshold.

Mr Barrie: It certainly is.

Ms LEAHY: I do not think that group of people would be able to go and view the approved contractors or the approved supplier arrangements, so the public cannot check if that particular organisation is on the preferred list. Obviously then letters to the editor end up in the paper because everybody is scratching their head going, 'How does \$31,000 get approved in one day and anything over \$1,000 takes three weeks?'

Mr Barrie: Yes. All I can say in response to that is that if it is over \$15,000, then the council should have complied with the default contracting procedures unless it had some exemption. The only exemption that would be likely is if it determined before going through that process that there was a single supplier or that there was only one person who could undertake that work. Without knowing any more detail I would not be prepared to comment further.

Mrs LAUGA: I am really interested in Local Buy, the procurement services company that is owned by the Local Government Association of Queensland. I have constituents all the time who contact me about Local Buy because they apply to be on one of the panels for Local Buy and never even receive a request for a quote. I am interested to know more about how it works. I understand too that it exists under the statutory authority of the Queensland government but it is owned by the Local Government Association of Queensland, so I am keen to understand its governance and how it operates.

Mr Barrie: The Local Government Association of Queensland Inc. was established under the Local Government Act until 2009; however, when the Local Government Act was remade in 2009 it ceased to be a statutory body under the local government legislation, so it is now referred to as the Local Government Association of Queensland Ltd, which is a corporation. The state does not have any statutory responsibility for the Local Government Association, hence any of its subsidiary companies are in the same position. Local Buy, as I understand it—and this is not unusual for preferred supplier arrangements—will establish preferred supplier lists for a period of time. Typically it will be two years plus an option for another two years. As I said in my earlier response to a question, there is a reason for that, and that is to save the administrative costs of having multiple tenders over a period, which from Local Buy's perspective—or anybody establishing a preferred supplier list—defeats the purpose of establishing a preferred supplier list. The only other thing I would say is that it is really a matter for those seeking to gain contracts with Local Buy to raise those issues with Local Buy and the Local Government Association of Queensland.

Ms Parton: I have a bit of broad experience in working with preferred supplier lists similar to the Local Buy arrangement. One of the issues is that, when you have a topic or a supply or a service where there are lots of suppliers in the market, you will get lots of applications to be on that list. That could mean that a supplier could be on the Local Buy list but not get any business from it purely because there could be 30 suppliers on the Local Buy list for that service, so there may not be that amount of business within the economy there.

Mrs LAUGA: What about potential double-up—and I think this does happen with a lot of councils—where you have Local Buy panels and councils also have their own preferred supplier panels? For example, if you are a town-planner you could have to apply to be on the council's preferred supplier panel and also the Local Buy panel because some councils use both in order to procure. I understand too with Local Buy that if you are a successful contractor then you have to pay a portion of the contract back to Local Buy as a fee for being procured.

Mr Barrie: What you have said is correct: it is permitted under the legislation. The one thing I wanted to say earlier was that councils are not compelled to use Local Buy. Sometimes there are very good reasons why they may want to establish their own suppliers, especially if Local Buy has not established a supplier list which meets the needs of a particular council. Other than that, all I can reiterate is that it is permissible and it does happen. I think Local Buy's business arrangements with councils is a matter for Local Buy and the LGAQ.

Mrs LAUGA: There is no statutory link between Local Buy and the Queensland government at all? There is nothing in the Local Government Regulation or the Local Government Act that requires Local Buy to be part of a procurement process?

Mr Barrie: No. Only to the extent that I made the comment before that, if any of the LGAQ's subsidiary companies wish to be on, for example, a preferred supplier list established by Local Buy, they would have to seek the Minister for Local Government's approval to do that. That is the only real link. I did have the provisions relating to the LGAQ here. I will have to get back to you on that. There is a specific provision in the legislation which says that the LGAQ ceased to be a statutory body at the commencement of the 2009 act.

CHAIR: Are you happy with those arrangements? You seemed to feel a little bit uncomfortable in your response to Brittany.

Mr Barrie: No. I cannot comment on the policy, I am sorry. It is what it is. Essentially, Local Buy and LGAQ established their business. If I felt uncomfortable then I am feeling uncomfortable because I do not want to speak on behalf of the LGAQ or Local Buy.

CHAIR: Okay, fair enough. Thank you for that.

Mr PERRETT: I have a couple of questions for Mr Barrie. The first one is around the requirement for councils to get value for money—and I think you mentioned that earlier in respect of the act—and your knowledge and your observations of councils using a weighting system to engage local contractors while trying to get value for money. I am interested in what percentages are acceptable in respect of that weighting for local authorities to use when engaging a local supplier or contractor as opposed to getting value for money? Do you have any comment around that and what the legal requirements are for councils? Quite often there is a lot of discussion about whether councils should buy something local but it is dearer to use a local contractor, or whether they should purchase those goods or services from outside the local authority and then cop the wrath of the local ratepayers or ratepayers association.

Mr Barrie: Again, these are matters of policy for councils to decide how they might weight their criteria and the sound contracting principles. A very important one is nurturing local business and industry. What we observed is that it is more prevalent in smaller, remote communities. Councils would typically have, say, a five or 10 per cent preference as an incentive for a local business. By that I mean in assessing an application, a tender or a quote, the councils may give a percentage weighting which says a local business gets a little higher mark for a particular area. It comes down to what the local businesses can deliver. For example, it is very difficult to procure IT services in small western communities—that is not to say they do not exist. It comes down to what contracts local businesses can support. Then it becomes a balancing act for councils and a decision-making process about how they wish to balance the needs of the ratepayers against the needs of local business.

We do not have any overwhelming feedback from communities about local businesses not getting their fair share, although undoubtedly those complaints are there; I accept that. It is a balancing act for the councils and at the end of the day it is a matter for their policy.

Mr PERRETT: I have another query. This relates to where councils work together—it may be under the banner of the Regional Organisations of Councils or councils that are neighbours—and decide to let a joint contract for certain goods or services. I had 12 years in local government prior to being elected to the parliament. One of the smaller councils I was part of prior to the amalgamation in 2008 worked cooperatively with other councils to let a waste management contract. How are they accounted for and what are the processes that are involved where you may have councils, as I mentioned, under the Regional Organisations of Councils banner or other arrangements? How do they then account for the processes for letting contracts? I would like to hear that.

Mr Barrie: Firstly, I think there has to be some form of agreement between the participating councils about how those resources are going to be shared. Firstly, we would say that we certainly encourage as much as possible from the department's perspective that resource sharing occurs where it can reasonably be done. There are provisions in the Local Government Act which allow in a sense for one council to sponsor contracts and for other councils to participate as long as those contracts are one and the same. One or two councils fell into some trouble some years ago where they used a contract established by one council for something else. It has to be one and the same contract. Generally, you will have a sponsoring council if there are two or three sharing those resources. Underpinning that all there has to be an agreement between the councils that determines how that contract is going to be administered and operate.

Mr KNUTH: With regard to the advertising for contracts to be a part of the list, I am not sure whether there is a time frame such as every 12 months or six months. Is this a part of policy to actually do this or does council just do it?

Mr Barrie: It would be determined by each and every council when they advertise for contracts. In relation to goods and services that are regular and frequent they generally do it for a period of time. There is no prescription in any of the legislation about how long contracts should run for. Councils determine that based on their needs. From a good practice perspective, going to tender or seeking a quote each time they want to let a contract is inefficient and administratively unwieldy, so they do it for a year or two or whatever it might be. I guess they would probably look at the market assessment, the relative risk of having a longer contract as opposed to a shorter contract—those sorts of issues. At the end of the day the length of contracts—how long they let them for, especially if it is for recurrent or periodic current type activities—is a matter for the council.

Mr KNUTH: With regard to making a decision as to who is going to be the preferred contractor for a certain council operation, is it the CEO or the councillors who make that decision?

Mr Barrie: Ultimately, it is the council and in a lot of cases, especially small councils, councillors do undertake that activity. In other councils the council may make a resolution to delegate the authority to the chief executive officer of the council to make contracts on behalf of the council. It is a bit of both. If you looked at Brisbane City Council, for example, the council itself would look at large contracts but much of it would be delegated to the chief executive officer. I suspect the chief executive officer would delegate some of those further down the line, whereas if it is a small, remote council the council may make a decision on each and every contract which is, again, entirely up to the council.

CHAIR: My understanding from what we were just discussing is that there is no formal time frame for a preferred contractor to be a preferred contractor. Is that a good thing? Does that leave it a little bit open to abuse if we have the same people on the same list for extended periods?

Mr Barrie: As I mentioned earlier, it would depend on the type of contract, the relative risk to the council and the ratepayers of having a short contract as opposed to a long one. Generally these things are only for regular or periodic services. If it is a discrete project to build a bridge, then you will not have a panel of preferred suppliers. It is a matter that the government through the legislation does not regulate. It is generally for a year or two—these supplier lists—and that is determined by the councils themselves and/or Local Buy for those which they establish.

CHAIR: There is no auditing process to ensure that that is not happening: where people are being the preferred provider or preferred contractor for an extended period of time and other people have not been given an opportunity?

Mr Barrie: The department does not undertake any audit of that activity.

CHAIR: Could councils be doing what I have just spoken about—actually having a list but sticking to one preferred contractor for an extended period of time? Could they actually be doing that and no-one would know?

Mr Barrie: I am just not aware of whether it is happening or not. These types of things are more the responsibility of the Auditor-General. Those councils are audited annually. I would not want to make too much more comment.

CHAIR: I want to go to your information paper on jurisdictional comparison. Could you run through for the benefit of the committee the differences between the regulations that are in place in New South Wales and what we have here in Queensland?

Mr Barrie: Certainly. The principles in the primary legislation are very similar to what we have in Queensland. The main differences are in the regulation. Under the New South Wales regulation it only refers to tendering; that is the heading. It does not have contracts or tendering; it is just tendering. Then it gets into a very prescriptive framework which sets out the procedures for calling tenders, opening tenders and dealing with tenders after the fact. It does not mention things like in Queensland with thresholds; it does not have the option to undertake a strategic approach as we do in Queensland.

In looking at the New South Wales framework, it has elements which are similar to Queensland but I have to say that the Queensland legislation is much more holistic. When I looked at the New South Wales legislation it seems to go from having high-level principles and then starting to get down into very detailed prescription about how tenders should be administered, but I felt there was a bit in between around the administration and management of contracts and tendering that the New South Wales legislation does not have. It is quite detailed in the regulation, as we have said.

CHAIR: Are you quite happy with the Queensland legislation the way it is at the moment?

Mr Barrie: All I would say there is that it seems to be a more holistic framework than what New South Wales has.

Mrs LAUGA: Local Buy says on its website that local government entities spend approximately \$12 billion on operating and capital expenditure every year and manage over \$108 billion in total assets. They also say that Local Buy is a prescribed entity under the local government regulations so it gives Local Buy the power then to undertake procurement on behalf of local governments in Queensland.

Mr Barrie: That is right.

Mrs LAUGA: That must then be to the exclusion of anyone who is not mentioned in the regulation; is that right? If you are a procurement company but you are not in the regulation you cannot undertake that service?

Mr Barrie: That is right.

Mrs LAUGA: Is it appropriate that a company owned by the Local Government Association of Queensland has direct access to such a significant amount of capital expenditure in Queensland and is then able to charge contractors a fee? I would like to know, if you know, the fee that Local Buy charges to contractors. Essentially, they are making a lot of money from local government procurement.

Mr Barrie: Yes. I cannot really answer that question, because it is a matter of policy—unless my colleague has any response there. The Local Government Regulation empowers Local Buy to establish those. All I would say is that the Local Government Association of Queensland represents the 77 councils in Queensland. The policy enabling Local Buy to undertake those activities is in the legislation. I cannot comment any more on that.

Mrs LAUGA: Do you know how much the Local Buy fee is?

CHAIR: Is it a formula?

Mr Barrie: No, I do not know what the fee is. I am not sure that we would be able to determine that, either.

CHAIR: Do you have access to that information?

Mr Barrie: I am not sure. We will take that on notice.

CHAIR: Thank you.

Ms LEAHY: I know in relation to the prequalifying processes for gas companies that it is quite expensive for local businesses and services to become prequalified. Are you aware of any of the costs that might be involved with businesses providing services to become prequalified for councils?

Mr Barrie: No.

Ms LEAHY: Do you think that the approved contractor lists and the register of prequalified suppliers should be published at all by councils?

Mr Barrie: It may be good for those lists to be published. I am not sure that they are not required to be published. Again, I might take that on notice.

Ms LEAHY: Could you take that on notice and check if the approved contractors list, the register of the prequalified suppliers and those who already have a preferred supplier arrangement need to be required anywhere by regulation or legislation to be published?

Mr Barrie: Okay.

Ms LEAHY: I know that other companies, like gas companies, said, 'We're going to put up our second and third tier prequalified suppliers.' We have the list up in our shopfront. They just publish them. If it is good enough for private industry, I am wondering why it is not good enough for local government.

Mr Barrie: Yes.

Ms Parton: The Queensland government also tends to publish its lists of preferred suppliers. We will certainly get some information.

Mr Barrie: Yes, they certainly have to publish details of contracts. They have to have a register of contracts over a certain value. I take the point of your question there.

Ms LEAHY: It leads on from what the chair was saying. If an individual company is on that approved contractor list and there is never an opportunity for another company to get on that approved contractor list, where do you go to find that information? That leads me to my next question. Are there any guidelines to councils as to how they provide information to businesses that perhaps are unsuccessful? They have tendered or may have quoted and been unsuccessful. I hear from businesses that councils simply say, 'We can't tell you. It's a provision under the Privacy Act. We can't tell you anything.' Those businesses that are unsuccessful are never able to get the feedback so that they can become successful. What guidelines are there for councils?

Mr Barrie: There is certainly nothing in the legislation that requires that. We do not generally provide that advice to local governments—not that I am aware of. We have not provided any guidelines about how councils should give feedback to unsuccessful tenderers. I feel that that is entirely a matter for councils. Having said that, there would be some principles or good practice that should be observed by councils. So we accept that.

Ms Parton: We also cover general issues of good practice in councils through our capacity building and training programs, especially for new councillors who have come in after the council elections. The department undertakes induction training. I think after the March 2016 election, 66 of the 77 councils attended that training. That includes a lot of topics, including their responsibilities as councillors, but it also goes somewhat into responsibilities as they relate to contracts and tenders. We also do capacity-building sessions that are tailored to councils' needs on governance. Some of those target those topics as well. That is more general information, but it is around best practice and how councils can adopt that.

Ms LEAHY: There was a departmental review of the contracting provisions. Who did the department consider as stakeholders when it did that review?

Mr Barrie: That review is ongoing. It commenced in 2016. I mentioned it earlier. We certainly consulted with as many councils as we could. Some that come to mind are obviously, Brisbane, Ipswich—those around the south-east corner—but we also consulted with councils such as the Cairns Regional Council, Local Buy and Local Government Managers Australia, which represents CEOs and senior executives of councils. That consultation was fairly widespread. I could give the list to the committee of those councils that were consulted, if you wish?

CHAIR: Yes, we would appreciate that. That was my next question.

Ms LEAHY: I have just one final question. Does the department ever review councils' purchasing policies and procurement policies? Does the department ever sit down and have a look at those policies across Queensland and try to work out where the best practice is?

Mr Barrie: Not in recent times, but it has been done from time to time looking at those policies. One of the things from the department's perspective—and this is consistent with the change in the act from the 1993 act to the new act in 2009—is that it was going from a very prescriptive and regulated system to a principles based system. In terms of monitoring councils' policies, we do it for some things. We certainly monitor things like whether they are meeting their time frames for financial statements, whether they are meeting their time frames around budgeting, simply because if they do not they have to seek an extension of time. In terms of their general policies, no, we do not as a rule.

Ms LEAHY: If there were a complaint about a council's purchasing policy, that would have to be dealt with by the council? If there were something not quite right in that policy and it was not working, the only avenue is a complaint to the council, who are the people who make the policy?

Ms Parton: Under the current legislation, that is correct. Any complaint about one of those council decisions has to go to the council CEO for initial assessment. The CEO is required to assess that in line with the different categories of complaints under the act and has the ability to dismiss it if they do not see that there is enough evidence. We have recognised that there are some issues with the current process for council complaints. An independent review was undertaken earlier this year. That is currently being considered by the government and there may be some changes to the processes as a result of that. Yes, under the current legislation, they have to make a complaint to the CEO first.

People have other options. If they think that there is corrupt conduct going on they can complain to the CCC. If they have complained to the council and they are not satisfied with the response that the council has given, they can ask the Ombudsman to do a review of that decision. We have recognised that the current provisions for complaints in the act could be improved, so we are currently considering that.

Ms LEAHY: Thank you.

CHAIR: Are there any other questions? Mr Barrie, you have probably got a feeling from the committee that we have been focused and a little bit concerned about the lists that are available, how often they change, why the local community cannot get an understanding of who is on that list.

Mr Barrie: Yes.

CHAIR: Do you think that is good enough? There is a concern there and we have a position by councils where they do not have to make the information available. Do you think that is fair enough? Do you think that we should look at changes in those areas? As local members, we get hit with those things quite a fair bit. We really do not have an answer to them, except to say, 'It's up to the local government.' In a lot of cases, I think that is fair but in a lot of cases I do not think it is fair either.

Mr Barrie: One of the things that I mentioned earlier was that, clearly, from the council's perspective that whole area around preferred suppliers and contractors' lists, the councils themselves see them as confusing and quite administratively difficult. That is because there are three or four different types of lists that essentially have the same underlying requirements to establish them. In that sense, from the department's perspective we would be looking at those provisions very closely, anyway. We would be trying to recommend to our minister, based on the feedback, that there is some room for streamlining in there. Some of those other things that have been raised by the members of the committee here today, we could certainly consider those as part of that process.

CHAIR: It is refreshing to hear you say that, because I think we all suffer from the same issue. We have constituents who raise those things on a regular basis with us. I think it is a fair enough argument. If I were a ratepayer, I would like to know who is getting the contracts, why they are getting them, how often they are getting them, who is missing out. I think that is a good thing for a ratepayer—openness and accountability. There are no more questions. There are questions on notice. Could we have those back by Wednesday, the 17th, please?

Ms Parton: Yes.

CHAIR: Excellent. We will break now for morning tea. Thank you.

Committee adjourned at 9.27 am