2001

PARLIAMENT OF TASMANIA

PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS

# INQUIRY INTO CERTAIN MATTERS RELATED TO THE SKILLS DEVELOPMENT FUND INTELLIGENT ISLAND PROGRAMME

*Laid upon the Tables of both Houses of Parliament*

*The Committee was appointed under the provisions of section 2 of the Public Accounts Committee Act 1970 (No. 54)*

MEMBERS OF THE COMMITTEE

LEGISLATIVE COUNCIL
Hon. *A. W. Fletcher* (Chair)
Hon. *C. L. Rattray*
Hon. *J. S. Wilkinson*

HOUSE OF ASSEMBLY
Mr *K. J. Bacon*
Mr *R. R. Cheek*
Hon. *G. H. James*

12017

# Inquiry into Certain Matters Related to the

# Skills Development Fund

# Intelligent Island Program

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# 1. THE PUBLIC ACCOUNTS COMMITTEE

The *Public Accounts Committee Act 1970*[1] provides for the establishment of a joint committee, comprising three members from the Legislative Council and three from the House of Assembly.

The statutory function of the Committee is as follows—

> The Committee must inquire into, consider and report to the Parliament on any matter referred to the Committee by either House relating to:—
>
> > (a) the management, administration or use of public sector finances; or
> >
> > (b) the accounts of any public authority or other organisation controlled by the State or in which the State has an interest.
>
> The Committee may inquire into, consider and report to the Parliament on: -
>
> > (a) any matter arising in connection with public sector finances that the Committee considers appropriate; and
> >
> > (b) any matter referred to the Committee by the Auditor-General.

The current membership of the Public Accounts Committee (PAC) is:—

| | |
|---|---|
| Hon A W Fletcher MLC | Mr. K J Bacon (Lyons) MHA |
| Hon C L Rattray MLC | Mr. R R Cheek MHA |
| Hon J S Wilkinson MLC | Hon G H James MHA |

The Committee has the power to summon witnesses to appear before it to give evidence and to produce documents and, except where the Committee considers that there is good and sufficient reason to take it in private, all evidence is taken by the Committee in public.

For the purpose of this inquiry the Committee sought and received the assistance of Dr. A McHugh, Auditor-General of Tasmania and wishes to thank him for his expert advice.

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[1] The Public Accounts Committee Act 1970, No.54 of 1970 and subsequent amendments in the Public Accounts Committee Amendment Act No 89 of 1997.

## 2.    THE APPROACH – 'tidemark design'

On the 8 January 2001, Mr Andrew Jones and Ms Maria Fletcher of 'tidemark design' wrote to the Public Accounts Committee requesting an investigation into the processes supporting the distribution of funds by the Skills Development Committee through the Intelligent Island Program.

They cited their particular concerns and asked the PAC to—

> "focus upon the Skills development program a $5 million grant fund to address skill shortages that would limit growth of the Tasmanian Information technology (IT) industry".[2]

The correspondence also drew attention to a recent report by the Auditor-General, *Assistance to Industry* [3] in which the Auditor-General made a number of recommendations in relation to the practices and procedures of the Department of State Development when granting funds to industry.

## 3.    TERMS OF REFERENCE

At its meeting on 13 March 2001 the PAC resolved:

> 'That the Committee obtain further information about the process of allocation of monies from the Skills Development Fund by the Skills Advisory Committee'.

At the same meeting the PAC requested the attendance of Mr Andrew Jones, 'tidemark design', and Mr. John Hayton, Executive Director, Intelligent Island, at the meeting scheduled for 19 March 2001.

The PAC's intention at this time was to define and measure the substance of 'tidemark design's concerns and to test it against the reality of the Skills Development Committee's process.

## 4.    THE EVIDENCE of 'tidemark design'

Mr. Jones made it clear both in a detailed submission and in his spoken evidence that the request to investigate the processes surrounding the distribution of funds through the Intelligent Island program was—

> 'in no way meant to implicate any other organisation/s but were simply an expression of concern regarding the Skill's Advisory Committee's <u>possible</u> failure to provide an objective and impartial assessment.' [4]

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[2] Mr Jones, Letter, dated 3 January 2001.
[3] Tasmania. Auditor-General. Special Report No. 32. Assistance to Industry, July 2000.
[4] Mr. Jones. Submission, March 2001

He went on to state that there was no alleged impropriety and that his concerns were that the processes used may have had the potential to foster impropriety.

Mr. Jones cited the following as of specific concern:—

- the potential for real or perceived conflict of interest;
- the limited availability of the guidelines for the Committee's procedures; and
- the general lack of transparency with the application and assessment process.

# 5. THE INTELLIGENT ISLAND PROGRAM

## 5.1 BACKGROUND

The Intelligent Island Program is a joint Commonwealth/State initiative funded from the sale of the second tranche of Telstra shares. The fund comprises some $40 million and aims to accelerate the development of an internationally competitive Information Technology and Telecommunication (IT&T) sector in Tasmania. This is to be achieved through support for new projects, by building on the existing IT industry, Tasmanian Government initiatives, and the research capacity of Tasmania's education sector.

Members of the Intelligent Island Board are:—

Mr. N Roach, Chair, Chair Fujitsu Australia,
Mr. P. Gartlan, Member, Chair Tasmanian IT Industry Council,
Senator B. Gibson, Member, Liberal Senator for Tasmania,
Senator B. Harradine, Member, Independent Senator for
Tasmania,
Ms. L. Hornsey, Member, Secretary Department of Premier and
Cabinet
Professor C. Keen, Member, Professor & Head of School of
Information Systems, University of Tasmania
Mr. J. Kelly, Member, CEO of the Department of State
Development
Mr. N. Stevens, Member, Department of Communications,
Information Technology and the Arts
Dr. M. Vertigan, Member, Executive Chairman Basslink
Development Board, Chancellor University of Tasmania.

The Intelligent Island Program contains seven major initiatives. The indicative funding levels for the initiatives are as follows:—

| | | |
|---|---|---|
| Initiative 1: | Incubator | $8m |
| Initiative 2 | Enterprise Development Fund | $10m |
| Initiative 3 | Centre of Excellence for Research and Training | $10m |
| Initiative 4 | Support for Education and Training | $5m |

| Initiative 4 | Investment Attraction | $6m |
| Initiative 5 | Telecommunication Infrastructure Study | $0.5m |
| Initiative 6 | Marketing | $0.5m |

Mr. Hayton, Executive Director, Intelligent Island was appointed on 18 December 2000.

## 5.2  THE SKILLS DEVELOPMENT COMMITTEE

The Skills Development Committee was appointed to consider and recommend grants from the Skills Development Fund which was set up under Initiative 4, Support for Education and Training.

This initiative, worth $5million over five years, is designed to ensure that there is a well educated and trained workforce equipped to develop, stimulate demand, and promote and support growth of the IT industry sector.

Members of the Skills Development Committee were chosen by the Intelligent Island Board and the PAC was advised that experience in the industry, and an ability to make well-reasoned judgments based on professional experience were factors in the selection.

Members of the Committee are:—

Mr Steven Jessup, Joint Managing Director Cyberlearning, Chairman;
Mr David Bartlett, Manager, Innovations, Science and Technology, Department of State Development;
Mr Andrew Catchpole, Manager, Prologic IS, Chairman of Software Engineering Australia;
Professor Yung Choi, Head of School of Computing, University of Tasmania;
Ms Penny Cocker, Acting Executive Officer, E-Imagine Centre of Excellence in On-Line Learning, Department of Education;
Mr Alex Gosman, General Manager, Government and Regulatory, Ericsson Australia;
Professor Christopher Keen, Head of School of Information Systems, University of Tasmania;
Mr Michael Stevens, Deputy Secretary, Vocational Education and Training Strategies, Department of Education; and
Mr Malcolm White, General Manager, Strategic Services and Regional North, TAFE Tasmania.

# 6.   THE ISSUES

## 6.1.   ASPECTS OF CONFLICT OF INTEREST

### 6.1.1.   The Potential for Real or Perceived Conflict of Interest

Mr. Jones identified 'conflict of interest' as his most serious concern. He posed the question:

> "Can a selection committee be completely fair and impartial when assessing their own grant applications and those of their business competitors?" [5]

In fact there are potentially two conflicts of interest possible in this scenario. The first relates to the difficulty of a committee member sitting in judgement of a fellow industry participant and the second involves the committee member having access to the intellectual property or financial details of another industry participant.

Clearly the selection of the members of the Skills Development Committee would have been difficult. The industry is small, and expertise and experience is limited to a relatively small group of participants.

Mr. Hayton advised the PAC that it was almost impossible in the circumstances to set up a totally disinterested, objective group of Tasmanians for the purpose of managing the Skills Development segment of the program.

Mr. Hayton described the situation in the following way:

> "There are only three alternatives: we can put Tasmanians on the committee that was making these selections with industry experience; we can put some Tasmanians on it without any industry involvement; or we can put non-Tasmanians on it. This market, in particular in this industry, is so small that there is almost no industry participant that we could put on a committee like this who would not potentially end up with some form of either a conflict of interest or more likely a perceived conflict of interest. So in that sense we're caught between a rock and a hard place
> If we had put non-Tasmanians on it, for instance, then you can be sure that we would have got criticism that said, 'You are not doing the right thing because you've put these people on this committee who do not have any experience of the local market'. So what did we do? We set up a committee that has Tasmanians on it who understand the industry sector because they are participants in it. There is at least one member of that committee who is not a Tasmanian but who, nonetheless, is an industry participant, so there's a degree of probity provided by that. We set up a series of procedures to enable the committee to undertake its work and avoid this conflict of interest issue as best it can." [6]

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[5] Mr. Jones, Submission, March 2001.
[6] Mr Hayton, Transcript of Evidence, 19 March 2001, p29.

When questioned on a better method Mr. Jones agreed that it was difficult:

> "Realistically, no, I don't have any ideas of a water-tight system but I definitely have ideas that the system that exists at the moment may be just a little bit too full of holes. "[7]

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**The PAC concludes that the composition of the Skills Development Committee did raise the possibility of real or perceived conflict of interest.**

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### 6.1.2.    Procedures to Manage Potential Conflict of Interest

Having heard the evidence that Tasmanian industry participants on the Committee created the potential for a real or perceived 'conflict of interest' the PAC questioned the Chairman about how the Committee process was managed.

Mr. Jessup explained:

> "The first thing I was really concerned about was any conflict of interest or potential conflict of interest or anything to do with conflict of interest and to communicate that fairly effectively. The process I went through was to do some research. I looked at the government guidelines from Victoria where they outsource IT projects by using outside consultants, say, for instance, from one of the big five consulting houses to look at how they manage bids where people who are on a steering committee may be giving reference to their competitors going for bids and I wanted to see what the conflict of interest guidelines for that were....
>
> .....Secondly, I really wanted to understand what a conflict of interest was because there are a number of conflicts of interest. One is a real conflict of interest and another is a perceived conflict of interest. "[8]

Mr. Jessup pointed out that an interest in this context could mean:—

- (a)    a financial or business relationship;
- (b)    as a competitor;
- (c)    as an employee of a related organisation;
- (d)    by the provision of mentoring advice; or
- (e)    being a participant where creative ideas and intellectual property had been discussed.

When the Committee met, each member cited any associations with applicants. The Committee discussed the declarations of interest and agreed that if members were centrally involved in a proposal they were to leave the room during the period of consideration of that application. If they were related in some other way they were to be denied the opportunity to take part in the discussion or to vote but were allowed to be present during discussions and were able to examine all proposals.

Mr Jessup indicated that there were-

> " some fairly clear guidelines in terms of conflict of interest and non-disclosure of information"[9]

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[7] Mr. Jones, Transcript of Evidence, 19 March 2001, p4.

[8] Mr. Jessup, Transcript of Evidence, 19 March 2001, p20.

[9] Mr Jessup, Transcript of Evidence, 19 March 2001, p24.

however Mr. Jones told the PAC:

> *"I've continually asked for the guidelines surrounding the committee's procedures and I've just continually been told they're not available."* [10]

The guidelines were tendered as evidence to the PAC by Mr. Hayton at a later date and are included as listed below in the documentary evidence to this report: -

(a)     *'Disclosure of Conflicts of Interest'* which is a statement on the nature of conflict of interest; and

(b)     *'Confidentiality and Disclosure of Conflict of Interest'* which is the document signed by all Committee members.

The evidence by Mr. Jessup indicates that the Skills Development Committee did generally act in accordance with these guidelines. [11] This strongly suggests that the guidelines operated at the relevant time.

The guidelines required that a person who had a 'direct' conflict of interest should not be present during any deliberation of the Committee with respect to that matter. In the case of a 'tenuous or indirect conflict of interest,' as decided by the Committee as a whole, the member may be present, however the member will have no input in the decision making process and may also be requested to leave the room at the discretion of the Committee.

No part of the guidelines actually defined the terms "direct" or "indirect" interest.

Mr. Jones also raised the situation where Committee members could have a direct interest in an application for funds.

In his submission, he cited a case where in an unrelated but similar circumstance a member of the Screen Tasmania Board resigned from the board saying:

> *"I will not be part of a board that allocates its members funding for projects. It's playing with taxpayer's money and leaves each person open to question"* [12]

The PAC requested further information about Committee members and any direct involvement in applications for funding. Mr. Hayton confirmed in writing that on his assessment, two Committee members, Professor Chris Keen and Professor Yung Choi were involved in separate applications.

In that letter, Mr. Hayton concedes that:

> *"I do acknowledge that I have applied a strict definition to the word 'involved'. That is, I have assumed that the committee [the PAC] is interested in projects where the individual concerned was involved in the design, or to be involved in implementation of the project. Many of the organizations that committee members work for, or with, made submissions. Committee members were not involved in the design of those projects."* [13]

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[10]Mr. Jones, Transcript of Evidence, 19 March 2001, p8.

[11] Mr. Jessup, Transcript of Evidence, 19 March 2001, p18-20

[12] Mr. P Wallbank as cited by Mr. A Jones. Submission, March 2001.

[13] Letter, Mr. Hayton, 6 April 2001.

In these cases the evidence from Mr. Jessup indicates that at least in relation to one of these applications, the committee member involved left the room during the discussion of that project. The evidence was unclear in relation to the other. In any event, neither application was funded. [14]

Assuming therefore that these were the only cases of the existence of a 'direct' interest, it appears to the PAC that the guidelines were followed in this respect.

However in relation to 'indirect' interests, the position is less clear. Mr. Jessup's evidence in most cases where such an interest was declared was for all the Committee members to participate in the discussion. Again, the evidence seems to indicate that decision making was by consensus so that participation in discussion was tantamount to participation in the decision. This is contrary to the policy set out by the Committee.

The extent of the disclosed indirect interests in the applications is shown by the evidence of Mr. Jessup. Mr. Jessup gave detailed evidence of the disclosure of interest by Committee members in relation to some twenty eight applications. The PAC notes that only three of these applications could be examined, discussed and ranked in an environment where no one declared a real or 'likely to be perceived' conflict of interest.

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**The PAC concludes that:**

- There were 'conflict of interest' guidelines in place at the time the Committee was considering applications for funding.
- The guidelines lacked clear definition for 'direct' or 'indirect' conflict of interest.
- The guidelines were not strictly applied to Committee members who cited a real or perceived 'indirect' conflict of interest.
- The Committee as a whole failed to determine and record the merits of each conflict of interest as being direct, indirect, real or likely to be perceived or that no conflict of interest existed and the Committee further failed to formally validate the right of the Committee member to participate in Committee deliberations.

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**The PAC recommends that:**

1. The policy guidelines covering 'conflict of interest' should be strictly applied.
2. The Committee should formally assess the real or perceived 'conflict of interest' for each of its members for each proposal before the Committee and that the interest as determined by the Committee as a whole be recorded in a register.
3. The register of interests should be available to the public.
4. A probity auditor should be used to overview processes.

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[14] Ibid.

### 6. 1. 3.    Procedures to deal with Confidentiality

When discussing the Committee and confidentiality issues Mr Jones said:

> "The concern is that you're putting ideas forward of a possible product, a possible framework, a possible strategy that you could use and develop, and your business competitors who are obviously also involved in other applications can see your ideas. I feel that is a breach to a degree of confidentiality. " [15]

Later in his evidence he said:

> "I don't feel that specific industry organisations, especially business competitors to myself and other IT organisations, should really be in a position to make judgments or assessments of applications" [16]

Committee members were required to sign the confidentiality agreement referred to above. In addition, the Department of State Development evaluated confidential financial data from applicants in the second round and this information was therefore not directly disclosed to the members of the Committee.

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**The PAC concludes that under the circumstances the Committee devised appropriate confidentiality procedures.**

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## 6.2.    TRANSPARENCY OF THE SELECTION PROCESS

### 6. 2. 1.    Selection Criteria

Mr. Jessup advised that, at its first meeting, the Committee identified a process to elicit responses from potential applicants in the community:

> " So part of our initial focus was on what process we would use to elicit responses from the community and we decided first up that it needed to be a split process. Instead of a single round application there would be two rounds: one would be a four page application which gave a synopsis of the case and what they were trying to achieve and then if successful in that process to go through to a more detailed funding application. " [17]

The first round call of applications were facilitated as follows:

- The Committee advertised for applications on 21 October 2001.

- The advertisement directed applicants to the Intelligent Island web site to obtain the selection criteria, the Preliminary Outline Form and the Application Form.

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[15] Mr. Jones, Transcript of Evidence, 19 March 2001, p4.

[16] Mr Jones, Transcript of Evidence, 19 March 2001, p 7.

[17] Mr. Jessup, Transcript of Evidence, 19 March 2001, p 16.

- The advertisement [18] indicated further information about the Intelligent Island Program and the Skills Development Fund was available on that site.
- The selection criteria [19] as published on the web on 20 October 2001 and detailed five main criteria.
- An information guide [20] on the same site provided additional information about the type of projects, eligibility, responsibilities, expenditure and the Committee's role. The Committee members were not named.
- There was a telephone number for the Department of State Development where further information could be obtained if required.

The first step in the process was for the applicant to complete the "Preliminary Outline Form". In addition to applicant details e.g. company ACN, address etc, the form required information addressing the project objectives, the team undertaking the project and stakeholder involvement.

There was no explicit reference to any other information required by the Committee to assist its decision making.

When giving evidence about the selection process Mr. Jessup made a number of references to creating wealth and the strategic goals:

> "How those applicants were going to demonstrate that they were going to meet the strategic goals at Intelligent Island. They might be worthwhile projects but how were they going to add to the skill base in Tasmania in such a way that it was going to create wealth..." [21]

and—

> "What we were at a loss at was trying to work out how those particular strategies would add wealth to Tasmania." [22]

These statements indicate that the Committee, were applying a ' wealth creation' test that had not been clearly made known to the applicants.

The Committee began the task by sorting applications.

> "Each of the deliberations were then ranked according to the criteria and then sorted as to how they met the strategic goals: whether they clearly met the strategic goals, whether it was a question of whether they met the strategic goals and whether they didn't meet the strategic goals and the criteria. That was our first ranking process." [23]

Seeking to clarify the situation Mr. Hayton told the PAC:

> "I think we need to distinguish between the criteria used to evaluate the applications which would have equal weighting and the areas that the committee saw as valuable to apply those criteria for." [24]

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[18] Mercury, Examiner and Advocate newspapers, 21 October 2001. See Evidence.
[19] See Evidence.
[20] See Evidence.
[21] Mr. Jessup, Transcript of Evidence, 19 March 2001, p20.
[22] Mr. Jessup, Transcript of Evidence, 19 March 2001, p21.
[23] Mr. Jessup, Transcript of Evidence, 19 March 2001, p21.
[24] Mr. Hayton, Transcript of Evidence, 19 March 2001, p35.

Mr. Hayton commenting on the applications said:

> *"they didn't meet the objectives that the Intelligent Island wanted to meet at the time".* [25]

But Mr. Jessup had said that applicants:

> *"had a fairly clear outline of documentation as to what was required of the program, what the parameters in terms of the criteria for the selection of programs and they were given information, especially through the web site, as to the strategic intent of the Intelligent Island Program."* [26]

The Committee was obviously intent with making sure that the applications met the strategic goals of the Intelligent Island Program as well as the specific selection criteria of the Skills Development Fund.

The PAC notes however that at no point in the process were applicants specifically directed to relate their project outputs and outcomes to the wider program objectives of Intelligent Island.

Apart from the statement in the general information material that *"Preference will be given to projects that have strategic, long-term benefits for industry growth"* applicants were given no direction to address anything other than the stated selection criteria for the Skills Development Fund in their application.

While Mr. Jessup and Mr. Hayton frequently referred to 'a four page application', the initial application specified a limit of two pages typed A4 sized pages for the project description.

Mr. Hayton and Mr. Jessup both indicated that the applications were not exactly what the Committee had anticipated.

Differentiating between the ideas contained in the applications and the manner in which the ideas and concepts were presented, Mr. Hayton said:—

> *"There's no way I'm saying that the ideas people wanted to communicate to us were inferior but certainly the articulation wasn't at a level that made it clear what they were after."* [27]

Both Intelligent Island witnesses attributed this to a number of factors including a lack of knowledge about information technology in the community and the experience, capability and skill of those making applications.

In relation to applications and selection criteria the Best Practice Guide for the Administration of Grants in the Tasmanian Public Sector [28] provides appropriate guidelines which state the following information should be given to applicants:—

| | |
|---|---|
| (a) | The program aims and objectives and measures for indicating that these have been achieved; |
| (b) | The selection criteria; |

[25] Mr. Hayton, Transcript of Evidence, 19 March 2001, p 34.

[26] Mr. Jessup, Transcript of Evidence, 19 March 2001, p 24

[27] Mr. Hayton Transcript of Evidence, 19 March 2001, p34.

[28] Tasmania. Department of Treasury and Finance. Best Practice Guide for the Administration of Grants in the Tasmanian Public Sector. 1996

| | | |
|---|---|---|
| (c) | Information about the approval process including; | |
| | (i) | Closing date for applications and likely approval decision dates; |
| | (ii) | An outline of the selection process; |
| | (iii) | The appointments of the people who make the final recommendations and approvals; |
| | (iv) | A description of appeal and/or Freedom of Information mechanisms; and |
| (d) | Accountability measures and processes for the outcomes of the grant scheme. | |

The Committee seems to have assumed that because certain Intelligent Island Program information was available on the web site, applicants would consult it, study it and then apply the objectives of Intelligent Island strategy to their application for funds under the Skills Development Fund.

The outcome of two rounds of applications, i.e. two grants of relatively small amounts being approved, suggest that the Committee's assumptions were wrong.

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**The PAC concludes that:**

- Best practice guidelines were not applied in respect to the first call of applications for the Skills Development Fund.
- The application format was not likely to encourage applicants to relate their project to wider strategic goals or indeed to give them physical space to do so.

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**The PAC recommends that:**

5. Best practice guidelines should be adopted in respect to all future calls for applications for grants from the Skills Development Fund.
6. There should be improved consultation with industry prior to further applications being called.
7. These community consultations should be focussed on:-
- educating the community about the objectives of the Intelligent Island Program;
- educating the community about specific Initiative program objectives; and;
- educating the IT community about the fundamental rights and obligations they have as applicants in the process.
8. There should be greater openness and transparency in the processes of the Committee dealing with applicants particularly and the IT community generally.

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### 6.2.2. Selection Procedures and Administration

Mr. Jones believed that applicants should be able to verify that the Committee's decisions were consistent with the guidelines. He said there was a need for the Committee's deliberations to be publicly available so that not only was 'justice done' but that 'justice was seen to be done'.

*"I've continually asked for the minutes, I've continually asked for the guidelines surrounding the committee's procedures and I've just continually been told they're not available."* [29]

Mr. Jones was strongly of the view that the minutes and other documentation of the Committee should be available. He contended that access to the minutes would allay any concerns.

The PAC notes that Mr Jessup frequently referred to the Minutes of the meetings to provide details of the Skill's Committee's deliberations.

The issue of transparency of process is an important one. When discussing the availability of the minutes Mr Hayton said:

*"No I don't think there is any particular reason why they should be. (available) They are available, if people wanted to use the FOI (Freedom of Information) process then they would be out and about."* [30]

If this is the case the PAC wonders why the Committee would frustrate its client base by refusing to meet legitimate requests without the need to use the FOI process. The Best Practice Guidelines for the Administration of Grants referred to above suggest that information about FOI should have been given to applicants. There is no evidence that this was the case.

Similarly, it appears that the Confidentiality and Disclosure of Conflict of Interest guidelines were not made available on request.

Mr. Hayton also reported that:

*"Everybody had the opportunity to debrief" ... ... I checked the letter and the last paragraph in the letter firmly offers people the opportunity to talk to an individual to gain information about the process, so the opportunity to debrief was there"* [31]

There was no evidence pertaining to the extent this offer was taken up but it was evidently a matter that was in the hands of applicants.

According to Mr. Jessup, the Committee was concerned about assuring the people of Tasmania and in particular the members of the information technology community that due process had and would be strictly observed and they could have every confidence in the Committee's decisions.

Again, there was little evidence that the Committee had taken any measures to reassure or inform the wider community about the Skills Development Committee and their deliberations.

The PAC notes that the Auditor-General has reported on the matter of the need for transparency in the making of grants to industry and strongly supports all efforts to reach the standard outlined by the Auditor-General.

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[29] Mr. Jones, Transcript of Evidence, 19 March 2001, p8.
[30] Mr Hayton, Transcript of Evidence, 19 March 2001, p27.
[31] Mr Hayton, Transcript of Evidence, 19 March 2001, p32.

Mr. Jones said that his requests for information had been denied, that when dealing with one particular person there was some feedback but it was—

*"reasonably inconsistent".* [32]

He was unable to find out who was on the Skills Development Committee three weeks after the close of applications and that it was generally difficult to get answers He said:

> *"The second round of applications was where you put a full application in, and I think there were only nine people asked to submit to a second round. I have no idea who they are either. I have asked the Department once again for that information."* [33]

The PAC finds it difficult to understand why information of this nature should not be public knowledge.

Mr. Hayton advised that since his appointment which was some time after the Committee first met and considered applications, he has spent considerable time on getting administrative processes established and in order.

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**The PAC concludes that:**

- Administrative problems associated with 'getting the program off the ground' are the most likely cause of the real or potential problems identified in the 'tidemark design' submission.
- The Committee acted with the best of intentions and the decisions made to date should be supported.

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## 6.3. NOW AND THE FUTURE

It appears to the PAC that the Committee has been on a steep learning curve and has benefited from both its experiences during the first round of grants and the appointment of Mr. Hayton. There have been lengthy discussions with industry about the process and the Committee is moving to meet industry requests.

Mr Hayton identified the matters, which were the subject of evaluation and indicated a number of changes that would be implemented. Specifically he identified:—

- The need to do more industry consultations prior to next round;
- The need to have an education program;
- The desirability of open public information meetings;
- The need for the Board and the Committee to get out into the community and talk to people about what is expected;
- The need for guidelines to be amended; and

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[32] Mr. Jones, Transcript of Evidence, 19 March 2001, p8.
[33] Mr Jones, Transcript of Evidence, 19 March 2001, p5.

- The time frame situation needs better management.

He said that for the next round there would be different procedures and there would be more informed judgments about providing information to applicants. Already the Board has set up a sub-committee to look at the whole skill development issue.

In addition to the measures previously identified, Mr Hayton gave the following evidence:

> *"I think there is another thing that we will do with the next round, which is probably to use a probity auditor. So we will go and get a person who is formally charged with ensuring that the process is carried out as independently as possible. But we should all realise that that - indeed I think is what you're trying to allude to - is not a perfect answer and it's not a perfect answer from the applicants point of view as well because one of the things that a probity auditor will do to avoid any perception of wrong play is that if one box that needed a tick in it isn't ticked, then that's basically out because that applicant didn't do what was required. So there is a degree of lessening flexibility associated with the way."* [34]

In concluding his evidence Mr Jessup said:

> *"...I think the onus is on all of us is to really make that policy work and to make sure that the stakeholders be that   those industries who are involved in Tas IT or the Australian Computer Society have confidence in the system. That is what we're asking for and we're asking of you to be able to go through the procedures that we've done and outline those very clearly and we wanted to be very straight with you about this is the way that we've tackled the problem, given the fact that this was the first funding round. We understand that in any organisation or any initiative it's a quality improvement process. We seek feedback and we're dearly committed to making this program work for Tasmania and thank you very much for the opportunity."* [35]

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[34] Mr. Hayton, Transcript of Evidence, 19 March 2001, p 39.
[35] Mr Jessup, Transcript of Evidence, 19 March 2001, p 42.

# 7. CONCLUSIONS

- The matters raised by 'tidemark design' were relevant and deserving of consideration.

*Conflict of Interest*

- The composition of the Skills Development Committee did raise the possibility of real or perceived conflict of interest.

*Conflict of Interest Procedures*

- There were 'conflict of interest' guidelines in place at the time the Committee was considering applications for funding.
- The guidelines lacked clear definition for 'direct' or 'indirect' conflict of interest.
- The guidelines were not strictly applied to Committee members who cited a real or perceived 'indirect' conflict of interest
- The Committee as a whole failed to determine and record the merits of each conflict of interest as being direct, indirect, real or likely to be perceived or that no conflict of interest existed and the Committee further failed to formally validate the right of the Committee member to participate in Committee deliberations.

*Confidentiality*

- Under the circumstances the Committee devised appropriate confidentiality procedures.

*Selection Criteria*

- Best practice guidelines were not applied with respect to the first call of applications for the Skills Development Fund.
- The application format was not likely to encourage applicants to relate their project to wider strategic goals or indeed to give them physical space to do so.

*Selection Procedures and Administration*

- Administrative problems associated with 'getting the program off the ground' are the most likely cause of the real or potential problems identified in the 'tidemark design' submission.
- The Committee acted with the best of intentions and the decisions made to date should be supported.

# 8.  RECOMMENDATIONS

1.  The policy guidelines covering 'conflict of interest' should be strictly applied.

2.  The Committee should formally assess the real or perceived 'conflict of interest' for each of its members for each proposal before the Committee and that the interest as determined by the Committee as a whole be recorded in a register.

3.  The register of interests should be available to the public.

4.  A probity auditor should be used to overview processes.

5.  Best practice guidelines should be adopted in respect to all future calls for applications for grants from the Skills Development Fund.

6.  There should be improved consultation with industry prior to further applications being called.

7.  These community consultations should be focussed on:-
- educating the community about the objectives of the Intelligent Island Program;
- educating the community about specific Initiative program objectives; and,
- educating the IT community about the fundamental rights and obligations they have as applicants in the process

8.  There should be greater openness and transparency in the processes of the Committee dealing with applicants particularly and the IT community generally.

Parliament House                                         A. W. Fletcher
Hobart                                                   Chairman
31 May 2001

# EVIDENCE

## DOCUMENTS

Letter, 'tidemark design', dated 3 January 2001
Intelligent Island Program, Information supplied by Mr J Hayton Executive Director
Submission, 'tidemark design', dated 19 March 2001
Transcript of Evidence, 19 March 2001
Letter, Mr John Hayton, Response to Request for Information,6 April 2001
Information, as published on Internet October 20 2000
Advertisement – Applications for Funding
Selection Criteria , as used by Committee,  November 2000
Disclosure of Conflicts of Interest
Confidentiality and Disclosure of Conflict of Interest

## PERSONS GIVING EVIDENCE TO COMMITTEE

Mr. Andrew Jones, 'tidemark design'.
Mr. John Hayton, Executive Director, Intelligent Island Program
Mr Steve Jessup, Chairman, Skills Development Committee