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Chair

The Honourable Diane Marleau

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• (0905)

[English]

The Chair (Hon. Diane Marleau (Sudbury, Lib.)): I call the meeting to order.

On the agenda we have the results of the last meeting, which I wasn't here to chair completely. Now, I'd like to know from the committee members if we can go to the Powell Group right off the bat instead of making our guest wait, and then we'll go on to the rest of it afterwards. What do you think? Is everybody in agreement?

Some hon. members: Yes.

The Chair: Mr. Powell, we're going to start with you. We don't want to get into a long-drawn-out debate and have you sitting there—not that it wouldn't be interesting. You can always stay to hear the long-drawn-out debate afterwards, but it's up to you. We don't want to force you to do that.

Mr. Powell is the director of the Powell Group—TPG Technology Consulting Ltd. He approached us because he wanted to come before the committee in relation to our study of the federal government's procurement initiatives.

Mr. Powell, have you ever been before a committee like this before?

Mr. Donald Powell (President, The Powell Group - TPG Technology Consulting Ltd.): No.

The Chair: Well, welcome for the first time. What we normally do is give you about ten minutes to make a short presentation, but it's totally up to you. Then after that we open it up to questions from the different parties.

Mr. Powell.

Mr. Donald Powell: Madam Chair, thank you very much. Thank you for the opportunity of appearing here today. I hope the issues I raise will be of interest to you.

This is about a contract called ETS at Public Works. When the ETS RFP was issued in 2006, we were very concerned—even though we had been doing the work for over seven years—that the RFP was structured so that we could not bid, because of project references that were included. At the time we thought it was just an oversight, but in retrospect it now seems to have been a deliberate attempt to prevent us from bidding.

We have three concerns related to the evaluation of the RFP. These are the lack of a fairness monitor, the apparent conflicts of interest, and irregularities in the technical scores. The lack of a third party fairness monitor for this procurement is an issue, and it was

discussed here a few weeks ago. This was a violation of PWGSC's own fairness monitoring policy framework, and it certainly didn't match their stated objective of ensuring fairness in procurement. So I think that's a big concern for us.

The second concern relates to the code of procurement, which states that if there is even an appearance of a conflict of interest, then those involved should remove themselves from any decisions involved in that procurement. In the case of ETS, several individuals are in this position: Minister Fortier, due to his previous connections with CGI; Mr. Steven Poole, the CEO of ITSB, the organization within PWGSC that issued the RFP, who was formerly a vice-president of Canada Post and Innovapost, a joint venture that is 49% owned by CGI; and Mr. Jirka Danek, a director general within ITSB and a former vice-president of CGI.

As far as the evaluation itself goes, it's important to understand the results of the RFP. For clarity I will refer to the technical scores used by PWGSC to justify the contract award to CGI as the published scores. There is conclusive evidence that these scores have been tampered with. The authentic scores that were assigned by the evaluation team will be referred to as the legitimate scores. I say this just to keep it clear.

So the evaluation was based on a 65% weighting for the technical score and 35% for the financial score. TPG, my company, was the low bidder and won the financial evaluation. For the published technical scores, CGI was given a high score, nearly 63 out of 65, with IBM three points behind, and TPG nearly six points behind. Due to the high technical score that CGI was given, they were awarded the contract.

Based on the history of government RFPs, these results were very strange, because the difference in technical scores between bidders was so large compared with most RFPs, where they are typically very close.

The evaluation process was completed between September and November 2006. During this period we heard reports that the technical evaluations were very close, with all of the scores being within two points of each other. We also heard that TPG was the winning bidder. Then several events took place that now seem to be very significant. On November 9, 2006, the evaluation was complete. In mid-November 2006, shortly after the evaluation was complete, Mr. Jim Bezanson, the director on the evaluation team, received an unsolicited job offer from Canada Post and left PWGSC shortly thereafter.

Because of the structure of the technical evaluation, Mr. Bezanson was the only member of the evaluation team who knew how the technical scores actually added up. His departure from PWGSC erased the corporate memory of the evaluation team and created a situation in which the technical scores could be changed with low risk of detection. So on November 22, 2006, Mr. Maurice Chenier, Mr. Bezanson's boss, told me that a reconfirmation of the evaluation was going to be done because the results were close.

So then we go to February 2007, several months later. At that time we heard that CGI, and not TPG, was the winning bidder. We also learned that the published technical scores were not close, as we had previously heard, but that CGI had a large advantage over both IBM and TPG.

In March 2007 we had a conversation with Jim Bezanson, who by then had been at Canada Post for three months. Mr. Bezanson told us that the ETS technical scores had been very close, and he was surprised that CGI might have an advantage over the other bidders.

From this information, it was obvious that the scores had been changed after the legitimate evaluation, without Mr. Bezanson's knowledge. We then attempted to obtain documents relating to the evaluation, which would confirm what Mr. Bezanson had told us. We filed numerous access to information requests, several CITT complaints, a complaint with the PSIO, and appeals to the Information Commissioner to obtain the necessary documents. None of these efforts was successful.

Only in the last few weeks, after 14 months of effort in dealing with these institutions, have we obtained the detailed evaluation scores for all bidders. These documents provide conclusive evidence of irregularities in the evaluation process.

In reviewing the individual scores assigned by the five evaluators, we find that the TPG scores do not match the published results at all. Any analysis of the scores assigned by the actual evaluation team shows that the results were indeed very close, exactly as Mr. Bezanson had told us.

The majority of the evaluation team—three out of five evaluators—gave TPG scores high enough for us to win the RFP by a substantial margin. With these high scores, it is impossible that TPG could end up with a published technical score far behind the other bidders.

In looking at the documents, it is obvious how the TPG scores were reduced. There were 217 evaluation criteria. For four or five of these criteria, the published scores for TPG are far lower than they should have been based on the legitimate scores. In one case the legitimate scores were 77, 80, 100, 100, and 100 out of 100, while our published score for this item was 49. This could not be a valid result and is obviously the result of tampering.

The questionable scores made the difference between winning and losing the contract. It is also certain that these low scores could not have been assigned by the evaluation team.

Our issues did not stop at the contract award. The contract was awarded in October 2007. The desire of senior officials in PWGSC to ensure that CGI retain this contract became even more obvious during the contract implementation. Senior officials in PWGSC

ignored their legal obligations in implementing the contract by not enforcing many of the mandatory requirements defined in the RFP and by changing other requirements to help CGI. CGI failed to provide the required 159 resumé of the qualified resources who were to do the work. They also submitted the resumé of a TPG resource without his permission, another violation of the RFP terms. They failed to provide the qualified staff at the time of transition as specifically outlined in the RFP. They failed to complete the transition by December 21, 2007, as specified in the approved transition plan.

Immediately after our contract ended, PWGSC implemented a blackout of system changes in order to assist CGI, which was also not in the RFP specifications. In all these cases, the contract with CGI should have been terminated, but senior officials in the department simply ignored these issues of non-compliance.

As it became clear that CGI would not be able to meet the RFP requirements to provide qualified personnel, PWGSC became a recruiting agency for CGI. The PWGSC contracting authority asked TPG personnel to respond to a CGI potential employee form and submit to interviews with CGI. This was not the process defined in the RFP and was not lawful. In spite of our objections, PWGSC management and staff repeatedly contacted TPG personnel and encouraged them to call CGI to seek employment. PWGSC management was fully aware that these actions were unlawful.

● (0910)

Finally, on December 21, the last day of our contract, PWGSC allowed our contract to end with almost no replacement staff available from CGI. This irresponsible action was taken to help CGI subsequently recruit TPG personnel, and it put at risk the interests of millions of Canadians. Whoever made this decision is guilty of gross mismanagement.

In summary, I hope everyone here agrees that misappropriation of \$400 million is an important issue, as it is more money than all of the recent procurement scandals combined. Since March 2007 we have asked for an open, transparent, and fair investigation into what happened. The opposition parties have made the same request through press releases and statements. The press has asked for an investigation. The government has refused.

Wrongdoing on the part of some public officials did not end at the early stages of the procurement but continued after contract award. Is filing a lawsuit and spending hundreds of thousands of dollars or more on legal fees the only way to obtain transparency and fairness in our country?

To understand the procurement process and how PWGSC actually operates, the committee will really need to investigate how procurements can go wrong and force transparency where the government has imposed a veil of secrecy.

Thank you.

● (0915)

The Chair: Thank you, Mr. Powell.

Mr. Holland.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Madam Chair.

Thank you, Mr. Powell, for your presentation. As this committee studies procurement, certainly the information you bring before committee is important and concerning.

You raise a number of different issues. One issue is the appearance of bias or the appearance of a conflict of interest in the evaluation of bids in a contract awarding process. I wonder if you could expand on the nature of that conflict as you saw it, or on the appearance of that conflict.

Mr. Donald Powell: The three individuals who might appear to be in a conflict of interest all have associations with CGI. Given what happened in the evaluation, it's only reasonable to wonder if those relationships had an impact.

Minister Fortier, of course, did work for CGI before he became the minister. We believe he's associated and friends with some of the senior CGI officials.

Mr. Steven Poole, who's the CEO of ITSB, the entity within Public Works that issued the RFP, was at Canada Post and Innovapost. He was part of the setting up in Innovapost, where the partner company was CGI. CGI owns 49% of Innovapost.

The third individual is Mr. Jirka Danek. Mr. Danek is the largest shareholder in a company that's a direct competitor of ours and is a former vice-president of CGI. He may have been in a position to benefit from the results of this RFP.

Those are the three individuals we have concerns about.

Mr. Mark Holland: I guess the appearance of this conflict of interest is that much more concerning because of the lack of fairness and openness and transparency that went on. Perhaps you could elaborate on that. Does that deepen your concerns in this regard?

As well, perhaps you could tell the committee whether or not the lack of fairness, openness, and transparency here is an isolated case—not just from your own experience but others with whom you're talking—or is typical of what you're seeing. Is it just indicative of this case and perhaps associated with the apparent conflict of interest?

Mr. Donald Powell: As far as I'm concerned, this is an isolated case. We've been competing for government RFPs for 20 years. Certainly until now we've always thought we were treated fairly. This is an extremely large contract, important to a lot of people. That perhaps makes it different.

We were aware of some of the conflicts of interest as the RFP was being competed for, but it certainly would never have occurred to me that people would take the step of changing the scores. But that's what they did.

Now, exactly who did what internally to the department, we don't know. All I can say is that I think it's an isolated case. The coincidence that three of these individuals have ties to CGI and then CGI gets this extremely high technical score and we get a really low technical score.... It's very hard to believe that's a coincidence.

Mr. Mark Holland: Yes, it's certainly very concerning to me. I think it's something we have to look into a lot more.

I know that my colleague Mr. Silva has some questions as well.

Mr. Mario Silva (Davenport, Lib.): Thank you, Madam Chair.

We do have a process in place for the procurement ombudsman. I just want to know whether you felt that's actually fulfilling the mandate, whether it's in fact meeting the needs of the suppliers.

Mr. Donald Powell: The procurement ombudsman is a new entity. I believe it was only staffed within the last three or four months, even though the position was defined a year or more ago. So in terms of our ETS contract, that wouldn't be of value, or it certainly wasn't of value, because it wasn't in place.

It's also my understanding that the role of the procurement ombudsman is to deal only with small procurements and not with very large ones. So that, of course, wouldn't be a concern. It may be of value for the contracts that fall within the scope, but for something like ETS, I don't believe it would be of any value.

• (0920)

Mr. Mario Silva: All right. Thank you very much.

The Chair: Madame Faillle.

[*Translation*]

Ms. Meili Faillle (Vaudreuil-Soulanges, BQ): Thank you, Madam Chair.

I would like to thank you for being with us.

The facts you've stated before our committee this morning are very disturbing and cause a great deal of concern. As you know, the committee has met many of the representatives whose weaknesses you've reported today. Among others, the people from National Defence told us last week that, in view of the amount involved in the contracts, a person reviewed the process, ensured that everything had been done in compliance with the rules and everyone had been able to participate fairly in the call for tenders.

Ms. Liliane Saint Pierre, from Public Works and Government Services Canada, told us that, normally in the case of substantial contracts, a person was designated to ensure that the process was properly conducted.

Do you know whether such a person was appointed in the case of your contract?

[*English*]

Mr. Donald Powell: The only entity I know of that would fill that bill is the fairness monitor. Even at that point, the fairness monitor's role typically would end at the end of the evaluation and not proceed into the contract award process. So, short of filing a lawsuit, I don't know of anyone you can complain to if the contract isn't implemented the way it was supposed to be.

As I said, in this case the fairness monitor was not assigned. Beyond that, I don't know of any mechanism.

[*Translation*]

Ms. Meili Faillle: The research staff have also provided us with documents concerning, among other things, the complaints process of the Canadian Foreign Trade Tribunal, or CITT. It appears that you have won on a number of occasions. In the last case, I believe it was determined that the contract should not have been granted to CGI. Despite that, the contract was awarded.

Can you explain to us what happened?

[English]

Mr. Donald Powell: There were several actions we took at the CITT. When they dealt with the substance of the matter, they agreed with us, but they didn't offer any remedy as to how to correct the situation. In that case, they agreed that Public Works had changed the scoring methodology from what was defined in the RFP. But their conclusion was that it didn't hurt anything and there was no remedy.

We did the four CITT complaints. The last one was still outstanding and there was no decision from CITT. Then Public Works declared the procurement to be urgent.

When they do that—and this is just a memorandum from the department to CITT—it basically overrules the CITT process, and the stop contract award is washed out. So that's what they did to get around the CITT.

[Translation]

Ms. Meili Faile: When they were asked whether they were circumventing the CITT's decisions, those people told the committee something different last week, which is quite disturbing. We clearly see here that they did not conduct an in-depth review of your claims.

Can you explain to us why they did so?

They told the committee that, in reviewing complaints or applications, they obtained all the documents that were used up to the awarding of the contract. This morning, you alleged that the figures were altered, that the clauses of the contract were not complied with. Normally, they should have seen that and obtained the required documents.

• (0925)

[English]

Mr. Donald Powell: Well, I agree with what you're saying, but it isn't what happened.

I'll very quickly step through what are perhaps two of the most significant complaints we made. The first one was on this issue of a reconfirmation and the potential conflict of interest. The CITT, in this case, ruled that we were too late in filing these complaints. In the case of Mr. Danek, for example, he had been hired in June 2006, and they said we should have complained then. This was very early in the RFP process, and if we had complained then, I'm sure people would have made sure we lost no matter what. So that's not really a practical way to operate. We actually complained when we heard that we'd lost, but they decided that it was too late then.

So we took that matter to the Federal Court, which agreed with us and decided that the CITT had been patently unreasonable. But it was six or eight months later by the time we got that ruling, and it didn't seem worthwhile going back to CITT on that issue.

The second major issue was this issue of the change in the scoring methodology, which we saw from one of the Public Works documents. The CITT agreed that the change had been made, and we sent a number of letters to them saying that we thought then that we needed to review the entire evaluation process to see how much of this was done and what the real impact was.

What happened was that Public Works submitted some kind of a spreadsheet on a confidential basis to CITT, so we couldn't see it, and the CITT basically said, oh, that's good enough, we don't need to see anything else.

So it is an inherent weakness in the CITT process that when you're complaining, you need to see the documents to know what happened and to prove what happened. The government has all the documents; we don't have them, and we have no power to get them.

So that's what happened.

Then they agreed that it was a bad thing that had been done by Public Works, but there was no remedy they could recommend, so it just stopped there.

Those were perhaps the two most significant CITT complaints.

[Translation]

Ms. Meili Faile: This is about transparency and fairness, but we see this morning that there really wasn't any transparency. If the process had been fair and equitable, you would have obtained the documents requested through access to information much more quickly. You would have had the documents at all times for review purposes.

At the start of your last answer, you mentioned that there had been a reconfirmation process. That's the first I've heard about such a process.

Can you tell us whether it's a customary practice?

[English]

Mr. Donald Powell: No, the reconfirmation was unusual and not something that I had ever heard of before. And it's clearly not defined in the RFP. In fact, that was one of the bases of our first CITT complaint.

Now, I don't know what a reconfirmation is and I don't know exactly what was done, but I was in a meeting with Mr. Chenier and he told me personally that they were doing a reconfirmation because the results were close. That's all I know about it.

In terms of the transparency, I must admit I was very surprised, given all of the concerns in the last few years about transparency. The access to information request is over a year old now; it's probably been 14 months since we put in the first one. We did get the evaluation documents a few weeks ago, but they are still only about 20% of the documents we asked for.

The reasons some were withheld included the economic interests of Canada, though it's hard to understand how those apply in this case. We went to the Information Commissioner, and the Information Commissioner agreed, yes, it was in the economic interests of Canada to withhold those documents. I can't understand it, but that's what happened.

• (0930)

Ms. Meili Faile: *Merci.*

The Chair: *Merci.*

We'll go to Mr. Kramp.

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Thank you, Madam Chair.

Welcome, Mr. Powell. We're glad to have you here, actually. It is very important that all departments of government have a sense of accountability and transparency. So if there is a situation where there is either some ambiguity or a lack of clarity, I think we all have a responsibility to ascertain the direction of the government.

I have just a couple of questions.

On this particular issue, we had, of course, the deputy minister and a number of his staff at this committee previously. Have you had a chance to review the testimony they gave?

Mr. Donald Powell: Yes, I did.

Mr. Daryl Kramp: I'm a bit concerned in one particular way, because in this testimony—and I might refer it to the attention of the committee and whoever would be interested—the question was asked, how was the minister involved in the contracting generally? It was a very broad-based question.

There was a response by the deputy minister, Mr. Marshall, in which he stated that “the minister is the general director of the department; he does not get involved in any individual contracting. He is typically informed only at the very end, when the department has made a recommendation.”

There was another question asked: “Was the minister or any of his staff involved in the TPG contract?” It was a very direct question, and the answer was unequivocal from the deputy minister: “Not in any way.”

He was asked whether he was satisfied that the contracting issue was a fair and open process. I think it's very important, and I'm going to read through the response here, because I think it gets right to the crux of where we're heading on this.

He said, “Yes, I am. ... We received three bids for this contract. The technical part was evaluated by five separate, individual evaluators, who did not talk to each other during the process.”

The secondary portion was the financial part. It was “evaluated by a lead evaluator and checked by a second one. I was briefed after the process had progressed to a certain extent. I was not told who won the contract, but I asked my chief risk officer, since it was potentially a large one”—as you've mentioned, this was a large contract—“to assure me after a review that all the proper processes had been followed; he did so. The minister's office was informed in due course on March 14, much later, when it was getting ready to be sent over to Treasury Board.” In other words, it was a *fait accompli*, just subject to the last-minute checks.

The deputy minister at that point said, though, “I personally interviewed the evaluators, and they've assured me there was absolutely no interference from anybody, let alone the minister's office, so the evaluations were never changed.” Obviously the minister was not one of the evaluators.

Did any of the evaluators complain either to Minister Fortier and/or to the deputy minister? Mr. Marshall said, “Absolutely not, and I asked them that question point-blank.”

So that brings me obviously to a situation where we have what I guess you would call a direct conflict of opinion on this matter. That, of course, will come to the assessment and judgment of this committee and others before. But I have just a couple of other thoughts.

How many contracts has TPG previously held with the federal government?

Mr. Donald Powell: I don't know the number, but quite a few.

Mr. Daryl Kramp: Quite a number?

Mr. Donald Powell: Yes.

Mr. Daryl Kramp: Do you currently hold any?

Mr. Donald Powell: Sure.

Mr. Daryl Kramp: Have you personally or have your staff met personally with the Minister of Public Works or any of his staff directly?

Mr. Donald Powell: Minister Fortier?

Mr. Daryl Kramp: Yes.

Mr. Donald Powell: No.

Just to clarify that, when we couldn't bid in 2006, this was a significant thing, not only for my company but for the department, because there were 200 highly skilled people working in there who would disappear if we couldn't bid. So I wrote to the minister saying, “Hey, look, you guys are supposed to be supporting small business and it's supposed to be a fair process here. I'd like to meet with you to discuss this.” And he refused to meet with me.

Mr. Daryl Kramp: The thing that disturbs me, of course, is that we have the CITT. It's an independent body there to adjudicate such disputes as this or whenever there's an inference that there might be a potential problem. You mentioned that they had their thoughts on the decision, and you've obviously differed with their opinion because we went on to a further complaint.

When the decision was reached by the tribunal the first time, what were the grounds for the dismissal?

● (0935)

Mr. Donald Powell: It was this 10-day thing, you see.

Mr. Daryl Kramp: Simply a timing issue?

Mr. Donald Powell: Yes. They thought we should have complained, say, when Mr. Danek was hired eight months before, although it's really not a practical way to run a business, to—

Mr. Daryl Kramp: But then in August you submitted a third complaint—

Mr. Donald Powell: Yes.

Mr. Daryl Kramp: —on the same issue, on matters by the Federal Court. Was an inquiry conducted at that point?

Mr. Donald Powell: No it wasn't, and the basis for that.... An individual in Public Works told me in confidence that there had been a second evaluation done and that the original scores were in fact very close. Now, this person was a contractor working in Public Works, so I was unwilling to name him, because of course he would have been out of a job immediately if I had. The tribunal said it couldn't take information from anonymous sources. If I had been able to give the guy some kind of whistle-blower protection, I could have done it. I was unwilling to sacrifice that person.

Mr. Daryl Kramp: My understanding is that we have that kind of capacity.

I noticed that again, after the decision from October 5, you filed a fourth complaint with the tribunal, which is your right to do. Then we even had a ruling. On December 20 the tribunal ruled that the complaint was not valid.

What were some of the reasons given? Can you tell us why they said the complaint was not valid at that time, after the fourth one?

Mr. Donald Powell: Here's what happened on the fourth one.

The RFP process required PWGSC to check references. You had to have three project references, and the RFP process required that they be verified. We realized eventually that they hadn't done that. So that was a violation of the evaluation process. We filed that in September 2007, or around that timeframe, and then what happened—it was just mind-boggling, to tell you the truth—is that after we filed the complaint, Public Works said they would then check the references. So the contract was awarded October 31, and they were scurrying around like crazy trying to check these references on October 30, a year after the evaluation had been done. It was just an unbelievable thing.

The CITT said that was fine. That was the basis of their ruling. It doesn't make much sense to me, but that's what they said.

Mr. Daryl Kramp: So there's obviously a difference of opinion between you, CITT, and the deputy ministers; they're all one-sided—

Mr. Donald Powell: Can I come back to your comments about what Mr. Marshall said, because I read that testimony very carefully. Let me be clear. He said to the evaluation team, "Were you pressured to do anything?", and they said no. I believe that's absolutely true. We won based on what the evaluation team did. Somewhere after the evaluation team was finished and before it went for contract award, the scores were changed. So of course the question Mr. Marshall asked wouldn't show up the problem. And I imagine he asked that on purpose, but I'm guessing.

Mr. Daryl Kramp: We also had testimony from Liliane saint pierre, François Guimont, and others.

Mr. Donald Powell: I will tell you this. There has been no testimony under oath by anybody who was directly involved in the evaluation.

Mr. Daryl Kramp: So are you suggesting their testimony here at this committee was false?

Mr. Donald Powell: You'd have to tell me exactly what they said. Minister Fortier, for example, said everything was fine because somebody else told him it was fine. He didn't go and check that it was fine.

Mr. Daryl Kramp: We heard testimony directly from a number of witnesses on this matter, and they are on the record here. Obviously their testimony is there to be evaluated and supported and corroborated or you've had an opportunity to take issue with it. If at some particular point they're all wrong and you're right...and I'm not suggesting that is the case. And I'm not suggesting that, because obviously I do appreciate your coming here. You're obviously a person who stands up for what you believe is right, and you have your own convictions on that.

The Chair: Thank you, Mr. Kramp. You'll get another turn if you wish.

Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you, Madam Chair.

I'm very pleased to follow up on my colleague, who said there was a lot of testimony on the record. I think that's where we begin to see how this case is not really passing the smell test.

This was a very controversial contract. It was commented on many times in the media whether or not there was direct interference or the possible appearance of interference. It was really the role of the minister to lay down some clear public markers, because Mr. Fortier had financial connections to CGI, and some key people were involved, as you pointed out.

We had Mr. Fortier before the committee, and I would like to read his testimony from the record. Mr. Kramp definitely says that being on the record is important.

I asked Mr. Fortier a number of simple questions. I said, "So do you use fairness monitors in your internal reviews of how contracts are awarded?" He said, "In some cases." I said, "What is the threshold for a fairness monitor? A \$400 million contract doesn't warrant one?" He said, "Not necessarily, no."

Then I said, "...you have a \$400 million contract that drew public allegations, and you don't have any kind of fairness monitor system in place. No offence, Mr. Fortier, but I think that's incredibly lax." He said, "Absolutely not. We have fairness monitors when the situation warrants."

I said, "So is it a personal choice? At what point do you include a fairness monitor?" He said, "It depends on the situation."

We were taking the minister at his word, because I can't see why the minister would come to this committee and either not know his facts or misrepresent them. Yet when I looked at the guidelines for a fairness monitor, it said that fairness monitors must be considered for all procurements over \$250 million. That wasn't an option, so Mr. Fortier misrepresented or did not know the facts on the fairness monitor. I think that's a key issue.

I had the opportunity on May 27 to ask Mr. Shahid Minto a question. He's our new procurement ombudsman and was the chief risk officer for Public Works. He said he had been involved in the establishment of the fairness monitor, so I asked him if the fairness monitor was optional. He said no. He said if the department decides not to use it, there had better be a very clear reason.

We didn't hear that reason from Mr. Fortier. He seems to believe he has the right and the power as minister to override the fairness monitor whenever he chooses. Where do you feel that puts you, having assumed that in a contract of this size a fairness monitor should have been in place?

● (0940)

Mr. Donald Powell: I think that's an excellent point. I believe a lot of things would have been different if there had been a fairness monitor. I think someone made that decision consciously for whatever motives they may have had.

In fact, talking about Mr. Minto, we did get a copy of the ETS evaluation that was referred to. It says in there that not having a fairness monitor was a violation of their internal policy—the policy that had only been in place for a year or something—and they chose not to do it.

The rationalization was that it was a repeat requirement. In other words, it was re-competing the same contract. But I don't understand why that shouldn't be just as fair, whether it's a new one or a repeat. It should have fairness associated with it.

So I agree absolutely with what you are saying.

Mr. Charlie Angus: We have very clear guidelines for the fairness monitor, yet the minister came here and misrepresented what the fairness monitor requirements were. He said he could choose to ignore them. On a very controversial case, where the *National Post* said he was very cozy with your competitor, he chose to overrule it.

I would like to ask you a second question. I asked Mr. Fortier if Public Works was involved in trying to poach your staff. He said very clearly, “No, and we do not do these things.” He was basically calling you a liar. Do you have any proof that his staff were trying to poach your staff in order to fulfill this contract?

Mr. Donald Powell: Certainly we have lots of proof. The document that was sent by the PWGSC contracting authority internally was prepared by CGI, and it was called a potential employee form. They were pressuring us to have our people show up at CGI for interviews.

We had numerous e-mails back and forth with someone from Public Works calling our person and saying, “If you want a job, you'd better call CGI.” Our person said, “Yes, but I'm a TPG person and I want to stay with TPG.” Then CGI said, “We're not dealing with TPG. You have to come to work for us directly.” That is how it went. We have probably a dozen e-mails, and I'm sure we could get far more witnesses if we needed them. I don't know the number of people involved, but they probably hired 100 of our people, or something like that.

Mr. Charlie Angus: Again, I find it very surprising that the minister would come here and, point blank, say that his staff weren't involved in poaching your staff if you say you have written evidence and e-mails saying that your staff were being poached.

Mr. Donald Powell: Not only that, but we sent letter after letter after letter throughout that period to the lawyers in Public Works saying that this was unlawful and they shouldn't do it. We sent them lists of names of people who were covered by agreements with us. They just ignored those.

● (0945)

Mr. Charlie Angus: Another question I have, based on testimony we received from Mr. Fortier and Madame saint pierre, is on the debriefing. Now again, that's not something the minister can choose. He might think he can choose, but debriefing is actually in the procurement rules, right?

You were not given a debriefing. Did you request a debriefing?

Mr. Donald Powell: Here's what happened. As I understand it, it is a requirement. There may be some discussion about what actually constitutes a debriefing. At the point of contract award, we got a one-page letter from the department saying the contract had been awarded to CGI; our score was this, their score was that, and they were not having debriefings. That's what the first letter said.

So I wrote back with a bunch of detailed questions that I wanted answered and a request for documents. They didn't answer any of the questions, and they said I had to go through access to information.

Then IBM, which had also lost, sent in a request for more information, and they told me they did get some of the documents they asked for. So I wrote back yet again—this would have been in late November or early December—asking why they wouldn't give us the documents when they had given them to IBM, and saying that we wanted these documents and we wanted a face-to-face debriefing. I didn't hear back on that one at all.

Let me qualify that. They may have replied in late February, after more things were blowing up, but certainly for three months we heard nothing.

The reason given by Minister Fortier in this meeting—that is, because it was before the courts—was new to me. Nobody had told me that. Nobody came back and said we couldn't have a debriefing because we were in front of the CITT. As it evolved, the last of the CITT issues was settled probably in January, and there was still no debriefing.

Mr. Charlie Angus: Well, this is again what I want to understand, because for someone to come to our committee and provide testimony, it has to be accurate, and yet when I asked Madame saint pierre, she said they didn't debrief you because you were already involved in a trade dispute. But you're telling me you got a letter before anything happened, and that was the full extent of it.

Then she said, “Well, if he had specifically requested a debriefing...”. You had specifically requested a debriefing—

Mr. Donald Powell: We did. It was a few weeks later, but we did. We sent a letter saying we wanted those documents and then we wanted a sit-down debriefing so we could discuss them.

Mr. Charlie Angus: The procurement rules say that “on request of a supplier whose tender was not selected for award, provide pertinent information to that supplier concerning the reasons for not selecting its tender, the relevant characteristics and advantages of the tender selected and the name of the winning supplier.” That's what happens in a briefing. Madame saint pierre said they did not give you that briefing because you were already in court, but you're telling me you weren't.

Mr. Donald Powell: Well, CITT complaint number four probably hadn't been ruled on at that point, but it was late December, maybe. The gentlemen mentioned December 20. It was in that timeframe. So at that point, all of the CITT issues were settled, and we didn't file the damage suit until the end of March. So there was a period of months in there when presumably there was no real legal action that this could be attributed to.

The Chair: Thank you, Mr. Angus. We'll have to get back to you.

Madame Faillie.

[Translation]

Ms. Meili Faillie: I'm going to continue in the same vein as my colleague who talked about the tribunal. You requested a debriefing. You mentioned that, when you requested the information, you had a case before the tribunal.

Is that correct?

[English]

Mr. Donald Powell: No, I didn't. This issue of it being before the courts as a reason for no debriefing was brand new to me. Until I read it in the testimony here a couple of weeks ago, I had never heard of such a thing.

[Translation]

Ms. Meili Faillie: At that stage, you can therefore conclude that some businesses received more information than documents provided by PWGSC than you.

[English]

Mr. Donald Powell: Yes, certainly IBM asked for certain things. They were the other losing bidder, and they got them. I assure you that was pretty annoying to me at the time, because they wouldn't give us anything.

[Translation]

Ms. Meili Faillie: Mention was made of the involvement of Mr. David Marshall, who was deputy minister of Public Works and Government Services Canada between 2003 and 2007. I believe he resigned shortly after that controversy.

Can you recall for us the link between Mr. Marshall and CGI? Was it a political link?

• (0950)

[English]

Mr. Donald Powell: The only thing I know about Mr. Marshall and CGI comes from a story that broke in the *Citizen*, probably before this RFP came out, that he was a guest at a function at the National Arts Centre. This violated his own internal policy, so he was kind of embarrassed by it. That was a big story in the paper.

That's the only connection that I'm aware of between Mr. Marshall and CGI.

[Translation]

Ms. Meili Faillie: Earlier you also mentioned that Mr. Steven Poole, the present assistant deputy minister of Public Works and Government Services Canada, responsible for IT services, came from a business called Innovapost.

Is that a company of Canada Post?

[English]

Mr. Donald Powell: About four or five years ago, I guess, Canada Post took their IT function and made it a separate entity. I don't know whether it's a separate corporation or not, but it's a separate entity owned in a joint venture, 51% by Canada Post and 49% by CGI. It operates as a separate business. I think they try to get contracts with other customers, although the bulk of their work is probably internal to Canada Post—Purolator and so on.

So yes, that's the connection between Mr. Poole and CGI. He was there, involved in setting it up, at the time.

[Translation]

Ms. Meili Faillie: Can you suggest to us any changes that should be made to the contracting process by PWGSC to ensure greater transparency in contracting?

[English]

Mr. Donald Powell: I have a few ideas based on what happened here. Part of it might be document control. The department retains control of these documents. I think the documents should be taken from the evaluation team and given to a trusted third party. At some point, certainly at contract award, they should be immediately available to anybody who wants them—I mean, that's transparency—as opposed to their doing an ATIP and waiting a year or two to get them. I think that's a simple thing that would help.

I actually believe the acquisitions branch should be separate from Public Works. The basic structure in most of government is that the acquisitions branch works at arm's length. It's supposed to ensure that the process is followed. In the case of Public Works, of course, it's all in the same department. They all report to the same people. It's one ADM talking to another. To me, that is not a good structure. Perhaps the acquisitions branch should be a separate department and report to a separate minister.

To me, there's another fairly simple thing that could be done. I actually believe you need some level of personal accountability for what happens, kind of like Sarbanes-Oxley in the U.S., so that the senior people are accountable for what happens in the organization no matter what. Perhaps a model like that would help.

I think some kind of audit mechanism of these scores would be important. When you see these documents, it's a bit mind-boggling; they're just photocopies of handwritten pages with numbers scratched out. Frankly, in our case there are some high numbers scratched out and lower numbers written in—in what appears to be different handwriting. You think, this is worth \$400 million? It's not a very good mechanism for managing this kind of money. If you were transferring \$400 million in a bank, you'd have a computer audit trail and so on. And that would be easy to implement.

Those are some ideas, I think.

The Chair: Thank you.

We'll go to Mr. Albrecht.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Madam Chair, and thank you, Mr. Powell, for being here today.

I think it's important again to put our meeting today into the context of the mandate of this committee in terms of government operations and estimates, procurement, and those kinds of things. The study we're doing now is trying to ensure that taxpayers are getting good value for money, that suppliers are dealt with fairly, and so on.

Recently we met with the ombudsman as well as the CITT. From those discussions, it appeared to me that we have a system in place that does monitor the process. And the Auditor General was recently asked by this committee to do a study on this TPG file, and she indicated there were presently a number of processes in place to examine the circumstances surrounding individual cases, such as this internal review and the CITT. I guess I would just echo her sentiments at this point and note that I feel there are systems in place to care for that.

I want to go back to a question that my colleague asked you earlier in terms of the number of contracts you previously had and currently hold with the government. You indicated you were unable to give us even an idea of the number of contracts.

● (0955)

Mr. Donald Powell: What is a contract? Is it a—

Mr. Harold Albrecht: Or give us the value of the contracts, just a rough ballpark figure.

Mr. Donald Powell: My company, prior to losing the ETS contract, had revenues of about \$50 million or \$55 million a year. Now the number is probably \$20 million a year, or in that range.

Mr. Harold Albrecht: With the large number of contracts you've previously had and currently hold, it would appear to me that you would have been very aware of the requirements for timelines to file your complaints on these kinds of issues.

Mr. Donald Powell: Well, no, because, you see, the CITT gets to make up when the clock starts. The wording is to the effect that when you might reasonably have known that you were disadvantaged.... To go back to the first CITT complaint we filed, I was just amazed that anyone could make a decision like they did.

The first of the two cases was about Mr. Danek being in a conflict of interest. We filed this after we heard that we'd lost the RFP. Now, if I had filed it in June, when they said I should, when he was hired, I would have been really unpopular in there, okay? So here are the guys who are going to be doing the evaluation and you're going to really upset them.

The second case was about Mr. Chenier telling me of this reconfirmation. Now, I have no idea what a reconfirmation is or whether it was of any significance at all. He told me that on November 22, CITT said I should have filed a CITT complaint then. But it's just not a practical thing to do.

The problem with that process is that CITT can look back and say that's when the clock should have started. It's not something I would be aware of or even have dreamed of doing. So we took that to Federal Court, which said that CITT had been patently unreasonable in making that decision.

Mr. Harold Albrecht: I have one final question, then. You indicated that you've never met with the Minister of Public Works or any member of his staff—at least I think that's the answer you gave

to my colleague. Yet I thought I heard in another response of yours that some staff member shared certain information with you in confidence. Does it not appear to be at odds with the whole issue of openness and transparency if you have confidential conversations with the people on staff? How does that fit into the picture?

Mr. Donald Powell: Well, 12,000 people work in Public Works. I certainly had no contact of any type with the minister, or his staff, or any officials in the department. But everybody loves to gossip, particularly about something like this. So lots of people in there talk. We had 200 people working in there, who all had their friends; and people talk to people, and that's how we hear things. These are internal discussions, not official ones, and they're certainly not from the minister's office. That's why we hear things. Of course, if you've ever worked in a big place, you'll know that not every one of those things turns out to be true, but quite a few do. Now we have enough other evidence to say yes, indeed, what they told us was exactly true.

Mr. Harold Albrecht: I think you've outlined a very important point, that not everything you hear in these large companies, or perhaps not even everything you read in the press, is necessarily true. I just think at this point it's important that we move on and allow the process to continue.

Thank you, Madam Chair.

The Chair: Thank you.

We'll go to Mr. Moore. Did you want to ask a question?

Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC): I guess there's another minute left, right?

The Chair: Well, no, you can have a full five minutes.

Mr. James Moore: I don't have too many questions.

I would suggest, though, that in November of last year the tribunal determined that the rankings of the three bids would have remained unchanged if the scoring methodology you suggest had been implemented. So why are we here?

Mr. Donald Powell: It's mainly because they wouldn't show anything to us.

The rationale for that decision was that they said Public Works said it didn't matter. I don't think that's getting a fair shake, actually. If they had shown us all these evaluation documents that we asked for, and the full record of this procurement, we wouldn't be here, because we would have been awarded the contract.

● (1000)

Mr. James Moore: On March 28 you served Public Works with a lawsuit against the crown.

Mr. Donald Powell: Yes.

Mr. James Moore: It's somewhat difficult, frankly, for this committee to go into too many details while this is before the courts. We can question it and kick it around and have people before this committee, but this will be before the courts and all the facts will come out. I'm quite confident that it will be shown every step of the way that nothing inappropriate happened here in terms of the public works department, as the minister himself said.

We need to be a little bit careful. This whole issue came up because there was an attempt to take down Dimitri Soudas over a story that appeared in a Montreal newspaper and all of that, which proved to be not true. It opened up the envelope on this issue a little bit. But this will go before the courts, and I'm not in the least bit—

An hon. member: [*Inaudible—Editor*]

The Chair: Just wait one second. He's on his time. It's his turn.

Mr. James Moore: It's my time. Easy, easy.

Thank you.

I don't see that there's a lot here, frankly. At every step of this process it's been determined that nothing inappropriate happened here. We can have this committee's time bogged down with bidders who didn't get the contract saying they were unfairly treated in the process, but there's no evidence of that, in my judgment. This will go before the courts.

The Chair: Thank you, Mr. Moore.

Frankly, I have not heard any connection with Mr. Soudas on this one. I don't know where that's coming from, but anyway...

Mr. James Moore: That was brought up in the original questioning with regard to the—

The Chair: At any rate, we'll go to Madame Faillie for five minutes, and then we'll go with Mr. Angus.

[*Translation*]

Ms. Meili Faillie: I thought Mr. Angus was speaking before me. I'm sorry.

The Chair: You can give up your turn.

Ms. Meili Faillie: Can we switch turns?

The Chair: Yes, if you want.

[*English*]

Mr. Angus, are you prepared to ask your questions now? Madame Faillie has decided to let you go ahead of her.

Mr. Charlie Angus: Sure.

Mr. Powell, you've been involved in government contracts for many years, I suppose.

Mr. Donald Powell: Yes, for way too many.

Mr. Charlie Angus: You've bid in the range of \$400 million contracts. Not everybody is in that market.

Mr. Donald Powell: Sure.

Mr. Charlie Angus: I would imagine that's a fairly small group.

Mr. Donald Powell: It is a small number of companies that could potentially bid on this, yes.

Mr. Charlie Angus: I think there would be an immense potential downside for you to come before our committee and make these allegations, because you have to deal with Public Works. Why did you come here?

Mr. Donald Powell: It's a reasonable question.

I came for several reasons. Obviously we're making a big issue out of this because of the amount of money involved, the impact on a lot of people, and the impact on my company. That's why we're

proceeding through the lawsuit, but the lawsuit isn't going to fix the system here. I've pointed out the flaws that are absolutely obvious.

In terms of the comments that this and that were ruled on in CITT, let me tell you that I've been working with the people in Public Works personally for certainly the last seven, eight, or nine years. I know them. If we had lost fair and square, I wonder why they wouldn't just call me and say, "Hey, look, here's the evaluation and here's how you lost." Then I'd have to give up. But they didn't do that; they won't do it, because they can't do it.

I do believe this process should be fixed. I'm in a position in my life where I can afford to take the risk of doing it. Most people couldn't. Most small businesses would never dream of doing this because of the long-term impact and the bad relationships with the government. Of course everybody's afraid of that, but I'm old enough to not have to worry about it, I suppose. That's really what it amounts to.

Mr. Charlie Angus: Again, I see there are many questions outstanding. The more I look into it, the bigger those questions get.

For example, you lose the bid. This is before you've seen any of the documents, but you know you've lost the bid. The standard response is the debriefing, yet when your competitor loses a bid, they get documents, while you're basically left out in the cold and told to go to ATI. We know what it's like getting ATI from the Conservative government.

● (1005)

Mr. Donald Powell: It's a slow process.

Mr. Charlie Angus: Yes. So why would your competitor be given the debriefing documents and you weren't? How could that ever be considered fair?

Mr. Donald Powell: I agree with you; it doesn't seem fair. I will say I don't believe IBM got everything they asked for, but they got some of the documents, the same documents that we had asked for earlier and were not given.

Mr. Charlie Angus: So we're in a situation now, and I had asked Minister Fortier, because I thought he was going to be able to put this matter to rest. Yet when I asked him about the fairness monitor, he said very clearly on record that this was completely optional for him to use, or whenever they choose. Yet that clearly violates the guidelines of Public Works, and this is a huge contract.

We have allegations you're making that the scores were changed, that you have evidence that you can see where they were crossed out and other hands came forward.

I asked Minister Fortier very clearly about the issue of his staff poaching your staff. He said there was no truth in that.

Now the Government of Canada is on the hook for a \$250 million lawsuit, and I asked Minister Fortier, at the end of the day, who is responsible. This happened under his watch. I'm not saying that Minister Fortier or any of his staff went in and changed those numbers, but the question from the beginning, as laid out by the media, is that there is a very serious question around this contract and due diligence must be done. Yet all we got from Minister Fortier was a very lackadaisical response.

If you're successful in this \$250 million lawsuit, who do you think is responsible for having left the Government of Canada so exposed?

Mr. Donald Powell: I would certainly take the position of, in effect, some of the articles in the media when we started this a year ago. Have an independent investigation. It could be done in a few weeks. It isn't really that difficult. Get the documents, get the people involved, and then it would be settled. If I'm wrong, then that would show that I'm wrong; and if I'm right, then it would be fixed. The decision to do nothing at that time and to continue really covering up the documents and hiding it all is a pretty serious mistake, it seems to me, and really an unreasonable thing to do.

At that level, you would have to say that the minister would bear that responsibility. As to what happened, the mechanics of changing the scores and so on, I don't know who did that and exactly how that was done. I can see that it was done, but I couldn't say who did it or why they did it.

Mr. Charlie Angus: As a final question, I think it would be very obvious that the minister just thought you were going to go away, but you're not. You're serious about following through and getting clear answers.

Mr. Donald Powell: Absolutely. I intend to pursue this. I believe it may have been the view of people in the department that as a relatively small company we wouldn't have the resources to pursue this or we would be too afraid of reprisals, but I certainly intend to proceed as long as it takes.

Mr. Charlie Angus: Thank you very much.

The Chair: Thank you, Mr. Angus.

Before I go to Madame Faille, you mentioned certain letters that you've received. Could you possibly table copies of them with us so that they can be translated and passed around?

Mr. Donald Powell: We have a binder here with a lot of the evidence we have. We can leave the whole thing or we can pick out specific documents.

The Chair: I'll tell you, as long as you're happy to do this.... Our researchers always like to see the paper.

Mr. Donald Powell: Yes, of course, and we certainly are prepared for that.

The Chair: They're quite happy. Look at the smiles on their faces when they look at that stack.

Madame Faille.

[*Translation*]

Ms. Meili Faille: Mr. Powell, is it correct to say that the Federal Court has ruled in favour each time you've turned to it?

[*English*]

Mr. Donald Powell: On the first CITT decision, the answer is yes, they decided that CITT had been patently unreasonable. We could have gone back and re-filed that at CITT, but that didn't appear to be a promising avenue.

We did try to challenge the urgency. When Public Works declared that this contract award had to proceed because it was urgent, we tried to get an injunction to stop them from doing that. This had never been done before. Nobody had ever tried to do this. The judge

sort of semi-granted us the injunction, because he didn't rule for about a month or more. So it kind of did what we wanted. In the end, he didn't grant us the injunction. His rationale was, well, CITT is going to decide this issue fairly soon, so you don't need an injunction.

That's what happened.

• (1010)

[*Translation*]

Ms. Meili Faille: So you sought an injunction because there was an exchange of correspondence for the contract to continue and the work to be done. The contract award was nevertheless suspended until things were clarified at the CITT level.

[*English*]

Mr. Donald Powell: Yes, for sure. I forget the exact circumstances, but we had an outstanding CITT complaint. CITT does what's called a stop contract award, in which they notify the department that the contract can't be awarded until the CITT ruling takes place. This is a questionable process in my mind, as all they have to do is write a memo from an ADM saying, oh, this is urgent, and then that overrules the stop contract award from CITT. So it overrules the CITT.

[*Translation*]

Ms. Meili Faille: The PWGSC and CITT people told us that that had never happened and that PWGSC had never circumvented a CITT decision. If there was a stop contract award order, PWGSC had to have a good reason to continue.

[*English*]

Mr. Donald Powell: Well, in terms of the urgent specification, the rationalization that was used was that the year-end was coming up. Everyone understands the year-end process—of course, that's March 31 in the government. Their argument was, well, things are busier during the year-end, and we don't want to go through this transition to the new contract during year-end, so it has to be awarded by October 31. That was the rationalization.

Now, in my view, they could have just waited until after the year-end. There are many other arguments, but this is the argument that was presented, and that's the basis. CITT has no power to make a ruling on this. When they get the memo from Public Works, that's it: the stop contract award is gone.

[*Translation*]

Ms. Meili Faille: I think an independent investigation should have been conducted on this contract to examine your claims and PWGSC's position and to determine exactly what happened. These suspicions of conflict of interest are quite disturbing. The fact that the Conflict of Interest and Ethics Commissioner was brought in to ensure that someone was on site to verify the process is disturbing as well. It appears from that that various provisions of the Clarity and Fairness Act seem to contradict each other. You have to have the patience to go through all those procedures. It's not easy to find your way.

As regards clarity, this committee has never examined the Office of the Public Sector Integrity Commissioner.

I believe you turned to it in the context of that contract. You submitted claims to the—

[English]

Mr. Donald Powell: If you're talking about the Public Sector Integrity Canada office, we did send them a lot of information. At the time, they were just being set up, so this would have been March 2007. It had existed before as the Public Service Integrity Canada office and then changed to become the Public Sector Integrity Canada office. We gave them lots of background, and there was back and forth.

In the end, they decided they couldn't investigate because these things were before the CITT. So they left open the avenue of going back there once the CITT was completed. That is the reason they didn't investigate it, because it was before the CITT.

• (1015)

[Translation]

Ms. Meili Faille: I have some time left and I have a brief question.

The Chair: Your time is up, but as no one wants to ask any questions, we'll give you a little more.

Ms. Meili Faille: A number of people have explained to us their role in the new legislation put in place to ensure greater fairness and clarity. We can see that you have very extensive experience with those structures.

In light of your experience, is the procurement structure put in place to help suppliers adequate? What are the major deficiencies at this time?

[English]

Mr. Donald Powell: Well, I think the fundamental process is probably good.

I think what I've seen here is probably different from anything else I've ever experienced, in that senior people probably have the power to get around a number of things if they want to. We can see this in terms of access to information; if we do an ATIP request, it isn't the ATIP people who decide whether it's released, but the person who holds the document. As long as that structure remains that way, people who are going to be embarrassed by something are just not going to release it.

So that's a tremendous weakness, as it all falls within the same basic structure in the organization. You probably need to have a separate entity with real power to deal with these things, because if we're in fact right that these scores were tampered with, of course nobody is going to volunteer that information. Somehow you need to separate those pieces out.

The second and related issue is that of implementing the contract. When you compete, you expect to deliver what you're promising to do. There really is no mechanism for challenging that; those decisions are just made in the department. The only way you can challenge them is a lawsuit, and I think that's not a good thing either, because it is open to an individual manager saying, well, I like those guys and I'm just going to let them off the hook. It's pretty clear that's what happened in the case of ETS.

[Translation]

The Chair: Thank you.

[English]

Thank you very much, Mr. Powell.

I think what we'll do is take a very short break and come back to our first item on the agenda. We'll break for five minutes—no more.

• _____ (Pause) _____

•

• (1020)

The Chair: I call the meeting back to order.

We are going to resume debate on the motion from Mr. Holland, relating to a study on the "Report on the Investigation into Unauthorized Disclosure of Sensitive Diplomatic Information".

I wasn't here when this was last debated. I don't know who was asking to be recognized and who hadn't been, so I'm going to take names. Who would like to speak to this resolution?

Mr. Warkentin and Mr. Albrecht.

Mr. Chris Warkentin (Peace River, CPC): I was speaking when we last finished here. I was making the point that specifically there's a report before us. There is an investigation that went forward. If people have questions to ask, it's fine if they want to ask them, I guess, but I'm not certain exactly what is being alleged here. And I'm not exactly sure how we're going to find any different information from what the experts have found.

It's one thing for us, as committee members, to go on a witch hunt, but it's something completely different to try to circumvent experts' opinions or the experts' investigation. Unless we have something to bring forward that will contribute, I'm not sure what the point of this is.

• (1025)

The Chair: Thank you, Mr. Warkentin.

Mr. Albrecht.

Mr. Harold Albrecht: Madam Chair, I made the point at the last meeting that this is another example of derailing important studies that we're doing as a committee. It's derailing the work of Parliament. And I think it's just slowing down, bogging down, and creating more opportunity to stop the real work that we were elected to do here. So I'm opposed to the motion.

The Chair: Mr. Kramp.

Mr. Daryl Kramp: Actually, my words are, very simply, the same as Mr. Albrecht's, and I would just ask that we call the question.

The Chair: Thank you.

All those in favour of Mr. Holland's motion.

Mr. Holland, are you in favour of your own motion?

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: The motion passes, so therefore it gets added to the long list of jobs that are before this committee. Obviously we won't get to it in this sitting.

Mr. Harold Albrecht: It will probably be some time in December.

The Chair: You can tell us more about when we're going to return than I can, but at any rate, it will have to wait until we reconvene in the fall, and then it can be part of the agenda of the committee.

Mr. Angus.

Mr. Charlie Angus: Thank you.

In terms of our business that has to get done, we don't know when the House is rising, but as chair, do you have a sense of how far

away we are from the passport report? I certainly would like to have that presented before we leave.

The Chair: Well, we can discuss that. We can go in camera right now if you wish, and we can go to that report if you'd like to do that.

Some hon. members: Agreed.

The Chair: Okay. We'll adjourn for two minutes.

[Proceedings continue in camera]

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