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—
Chair

The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I call the meeting to order.

On behalf of all members of the committee, I want to extend to everyone a very warm welcome. This meeting is going to be in two parts. The first part is to deal with an ongoing issue that we're dealing with regarding a motion adopted by the committee on Tuesday, May 12 concerning audio recordings relating to the study of chapter 3, "Contracting for Professional Services—Public Works and Government Services Canada". It relates to the committee's request for the production of 18 audio cassettes, or tape cassettes, in their unaltered state. It was originally agreed to, and then it is my understanding of the process that the agreement was denied because it was felt to be an access to information request. Then when that was resolved, the answer came back that it was a Privacy Act situation, and it would have to be altered to satisfy the provisions of the Privacy Act.

It's certainly my opinion—and it is one shared by many others in the parliamentary world—that statutes of general application do not affect the powers or the privileges of Parliament, and that Parliament, and of course committees of Parliament, are entitled to seek the production of persons, papers, or records, and that would be in their unaltered state. Now there will always be issues of confidentiality. There are issues of state secrets. There is the issue of it not being appropriate for us to receive them, or if we do receive them that we receive them in secret, or in camera, but I don't see that being the case here. We've had a number of legal opinions given to the committee, but before we went any further on this particular issue, we thought it would be appropriate and prudent for us to hear from the solicitors advising the Department of Public Works and Government Services as to the basis of their opinion, and also the precedent that they're relying on to deny Parliament its request for the documents or the paper of the records in question.

First of all, I'll introduce the witnesses. I understand the opening comments are going to be delivered by the associate deputy minister. We again welcome Daphne Meredith, associate deputy minister, Public Works and Government Services. She's accompanied by Caroline Weber, assistant deputy minister, corporate services, policy and communications branch; Ellen Stensholt, senior general counsel; and Christine Payant, director general, product management. Thank you again for coming.

Madame Faillle.

[Translation]

Ms. Meili Faillle (Vaudreuil-Soulanges, BQ): Mr. Chair, I would like to inform the committee members that, for the past three weeks, I have been analyzing all of the audio tapes that were given to us, and I am now finished. That is the kind of job that I would not wish on my worst enemy.

What I found was pretty interesting. I would like to tell the committee members about a report that I prepared. It summarizes the parts of the recordings that I think need to be pointed out. I also wanted to specify for committee members which sections were not part of the recordings, something that I was able to confirm because the agenda for consultations was made public. So we knew who was supposed to speak and when, which allowed us to determine who was not on these tapes.

I was wondering if I could have five or six minutes of the committee's time at some point to talk a little bit about my findings, but we could still discuss and debate the report's content in the fall. I wanted the committee to know about the work I had done, and that I was ready to table my report.

[English]

The Chair: Sure.

Why don't we do it this way: if it's the consensus of the committee, I'd like to have the opening statement first; then I'll give you the floor for, let's say, seven minutes, Madam Faillle. Is that fine?

Ms. Meili Faillle: *Oui*.

The Chair: Ms. Meredith, your opening comments, please.

[Translation]

Ms. Daphne Meredith (Associate Deputy Minister, Department of Public Works and Government Services): Thank you very much, Mr. Chair. I also want to thank you for introducing my colleagues who are with me today.

Thank you for the opportunity to explain PWGSC's actions regarding the audio recordings of our industry consultations on the Government Enterprise Network Services.

• (1535)

[English]

By way of background, let me begin by outlining the origins of these consultations on which the audio recordings in question are based.

On June 17, 2008, PWGSC committed to formally consult with industry on the implementation of IT shared services and government enterprise network services, or GENS. This commitment was in response to concerns raised by members of the IT industry before the Standing Committee on Government Operations and Estimates with regard to the government's bundling of procurement of IT products and services.

Accordingly, three separate consultation sessions were held between December 2008 and February 2009, with 141 company representatives confirming their attendance. We prepared an extensive report on these consultations. This was then sent to the committee on operations and estimates, as well as to your public accounts committee, on May 7. The report was released publicly that same day, with a communiqué that also noted the favourable response of many members of the industry to the consultation process and its results.

On March 24, the committee asked us to provide as well the audio recordings of our consultations. We have worked diligently to comply with this request.

As part of the consultation process, I should note that we advised the participants that we would record the proceedings to help us prepare a summary report on the industry consultations, which, in turn, would be made available to the public. It was never the department's intent to make the recordings public.

After this committee requested the recordings, Department of Justice lawyers advised that the names of the industry participants, in combination with the names of the company they represented, is considered personal information within the meaning of section 3 of the Privacy Act. Under this interpretation, as per subsection 8(1) of the act, participants' names cannot be disclosed without their consent, except where the information is publicly available or in accordance with subsection 8(2). None of the provisions under subsection 8(2) would appear to apply in this case.

Following a review of 31 hours of recordings, stored on 18 compact disks, it was determined that consent would need to be obtained from 16 of the consultation participants. The names of the other industry representatives were found to be publicly available.

On May 15, the department sent letters to the 16 individuals requesting a reply by May 22. Five individuals declined to grant consent, one could not be located, and one was away and could not be reached. As a result, on May 26, PWGSC provided the committee with 12 of the 18 CDs in their entirety. The remaining six disks were provided to the committee on May 29, after the department had deleted the names of the five individuals who declined to provide consent.

Unfortunately, during the editing and removal of the names some errors were made. A new, complete set of CDs was delivered to the committee on June 15, with the errors rectified.

We want to stress to the committee that the seven participants' names are the only information missing from these recordings and that these were removed for the sole purpose of allowing us to meet our obligations under the Privacy Act. In all, about 12 seconds of recording time have been redacted from a total length, as I mentioned, of 31 hours.

We have acted in a manner consistent with our legal advice to uphold the act to protect the rights of individuals whose personal information is held by the government.

To conclude, Mr. Chair, I would like to underscore again that, in all of its actions, PWGSC has worked diligently to respond to the committee's request, while at the same time respecting our statutory obligations under the Privacy Act.

I'm happy to take your questions.

The Chair: We'll allow you up to seven minutes, Madame Faille, to make whatever presentation you want to make.

Mr. Terence Young (Oakville, CPC): On a point of order, Chair, my concern is that we've now heard that nothing's missing but a few names and that we're in danger of offending or breaching the Privacy Act.

I just want make sure that in Madame Faille's presentation, the names aren't revealed inadvertently or advertently.

[Translation]

Ms. Meili Faille: I do not have any names.

[English]

Mr. Terence Young: Thank you.

The Chair: Go ahead, Madame Faille.

[Translation]

Ms. Meili Faille: I would like to thank the committee for giving me the chance to table my report. We had an opportunity to receive documents from Public Works and Government Services Canada (PWGSC), namely, a report and recordings of consultations with industry representatives concerning large information technology (IT) projects on shared networks and Pillar 1, Government-wide Enterprise Network Services.

Through its deputy minister, François Guimont, PWGSC promised a business case and recordings of the public consultations. The committee has received an operational justification that does not constitute a business case and recordings from which portions have been deleted without explanation.

First, I would like to remind you that the Standing Committee on Public Accounts has conducted a number of reviews of IT projects and, more recently, of the associated professional services. That is why we are currently reviewing the professional service contracts.

The Auditor General has been submitting reports on large IT projects since 1995. So the committee has 14 years of experience in this area. At its meeting on March 24, PWGSC undertook to provide the committee with a business case and videocassettes from the consultations that took place.

Before I go into the business case, I want to remind you of the committee's positions. I would like to spend a bit of time on the recordings of consultations, which can be found on page 2 or 3, depending on whether you have the English or the French version.

PWGSC was to provide transcripts of the videocassettes of the public consultations. After a series of discussions, PWGSC officials agreed to supply the recordings of these consultations. In the May 26 letter, the deputy minister informed us that some cassettes would be altered, that the discs were being reviewed and that the names of individuals who did not consent to disclosure would be deleted, in accordance with the Privacy Act. That is what the deputy minister has just confirmed.

However, what I read of the content of the recordings was not the same as what the department read. In my report, I talk very frankly about what I did not find, and I have questions about why these sections of the presentations were deleted. I refer to what we were told here. I have the corrections. I still found sections that were deleted on the cassettes. We have the agenda, so you can do the same thing I did and come to the same conclusion.

Accordingly, the entire morning of January 15 is missing. On disc PM1, on the afternoon of January 15, at 2 min 16, presentations are missing. On disc PM1, a portion of a presentation is missing on the afternoon of January 15, from 16 min 40 to 17 min 07. I list the missing presentations in my report, so I will spare you the details of what was deleted. But, on the afternoon of February 5, on disc PM2, around 20 minutes of presentation are missing. The same goes for the morning of February 6 on disc 3. The list is in the report. I invite you to watch the tapes. I will probably have questions for you about what exactly you deleted from those tapes.

I also contacted some representatives of organizations whose presentations were deleted. That enabled me to verify that these people were not contacted, and that the deletions from their presentations were not made to protect their identities, but rather for other reasons of which I am not aware.

Given the length of the deletions, I take issue with the deputy minister's report. Approximately seven hours of presentations are missing. I want PWGSC to supply a list of the individuals with whom the department corresponded or who confirmed their willingness to be identified, how they were contacted, who made the deletions from the recordings, and the reasons for those deletions.

• (1540)

More than once, PWGSC officials told us that they were going to make the recordings available. In our conflict of interest study, we examined the control that departments have over the terms of a contract, the scope of the work to be carried out, the costs and the business cases.

In the recordings made available for the afternoon of January 15, Public Works said that it was looking for two firms to qualify to do the work and that when those firms were known, Public Works would begin assessing the costs and doing a business case. I would say that that goes against the committee's positions, and that it is unacceptable.

What I can say right now about the content of the recordings is that there were clearly no specific or measurable objectives during the consultations, nor were there any potential cost-benefit estimates. And the risks associated with this new approach to supply the technology sector were not identified. The possible offshoring of

jobs was not ruled out, and there was no mention of the impact on small and medium-sized enterprises. So, without matching up statements, I know that the committee could study the entire file. But I have questions about why the department is hindering our work and not sending us information.

Do I have two minutes left for my conclusion?

• (1545)

[English]

The Chair: You're pretty well out of time.

[Translation]

Ms. Meili Faille: Fine. You will find the rest in my report. I end with a few recommendations for the committee.

[English]

The Chair: Okay.

Thank you very much for your work. I make the assumption that you're probably the only person on the committee who listened to the tapes, so thank you for that, and thank you for your report.

I want to remind members of the committee that there are two issues here. One issue is that our legal counsel, certainly, is of the view that the Privacy Act does not apply at all to this discussion. Madame Faille raises another issue that there are two conflicting versions of how much of these tapes have been deleted and what deletions have been made, which is relevant, but it's unrelated to the first issue.

What I'm going to do is to have one round of five minutes, first of all, to see how we get along.

Who is to speak on the Liberal side?

Ms. Hall Findlay, you have five minutes.

Ms. Martha Hall Findlay (Willowdale, Lib.): Thank you very much, Mr. Chair.

I thank everybody for being here.

Merci, Madame Faille.

Clearly a number of questions jump out at us from what Madame Faille has said.

I have a couple of questions, and because of the limited time, short answers would be much appreciated.

The first question that comes to mind, given what your report said, Ms. Meredith, and what Madam Faille's did, is that on the one hand only a very small amount of taping was taken out to protect the identity of certain people, but on the other hand, according to Madame Faille's review of the tapes, it sounds like a great deal of time was deleted.

Can you speak to that discrepancy, please?

Ms. Daphne Meredith: Chair, I can't speak to the discrepancy.

What I can speak to is the fact that my staff made the deletions targeting the names. They then verified the deletions to ensure that it was just the names they had properly deleted. The information that came back to me was that it had been done correctly. Unfortunately, it took two passes through to do that properly, but my information is that only the names have been deleted.

Therefore, I'm surprised to hear today that there's a different view. So I can't explain that.

• (1550)

Ms. Martha Hall Findlay: There are other questions, but I would hope, given the discrepancy, that somebody would go back and take what Madame Faillie has pointed out and either confirm that those sessions were not taped or explain the deletion.

I had understood, because of our work on the public works committee, that the consultations had been done for the most part, if not completely, with a number of people in the room. Were, in fact, a number of these consultations engaged in on a one-on-one basis with participants?

Ms. Daphne Meredith: No. There were three sessions: one in December, one on January 15, and one between February 4 and 6. All of them were held with many industry representatives present, as well as many executives and others from the federal government. So there was a group.

Ms. Martha Hall Findlay: But clearly there were industry participants who might have had different vested interests in where the GENS project was going to go, or some of the other aspects of the subject of the consultations. What I'm trying to get at is whether there were different people who might have had differing interests in the room at the same time.

Ms. Daphne Meredith: Yes, indeed. In fact, the staging of the consultations was posted on MERX, which is sort of a general information system that suppliers use. So it was an open invitation for diverse representatives of the industry who might have an interest to attend.

Ms. Martha Hall Findlay: Madame Faillie has pointed out—and we in Public Works had a bit of the same frustration in the request for a business plan. In our committee, we had much discussion over whether the business rationale that PWGSC provided us was the same thing as a business plan. We certainly had much toing and froing in that discussion.

But I will say that one of the reasons we had asked for the business plan was out of a concern that had been raised about bundling of contracts with regard to professional services. And when the department came out with a business rationale, it seemed to address, in fact, a number of those concerns, particularly the decision not to bundle, in particular, with professional services.

My question, though, is this: were the participants in these consultations provided with a copy of the business rationale that we were provided with at committee, and if not, why not? But if so—

Mr. Andrew Saxton (North Vancouver, CPC): Mr. Chair, I have a point of order.

I'd just like to remind my honourable colleague that we're here today to discuss the tapes. We're not here today to discuss the

business case. That's a completely different matter. So if you have issues about the tapes, then please—

Ms. Martha Hall Findlay: But with respect, I'm trying to get at whether there was any reason to delete any information on the tapes. So my question is, if the business rationale provided was provided to all of the participants in the consultations, have you had complaints or have you had some view that participants were not adequately heard?

The Chair: I'm going to allow the question. Then you'll have 40 seconds left, Ms. Hall.

Ms. Martha Hall Findlay: That would go specifically to whether there was any desire or need to delete anything at all from the tape, if there was anything at all that needed to be hidden.

Mr. Andrew Saxton: That's a real stretch.

Ms. Martha Hall Findlay: So I'll ask, was the rationale provided to all the participants, and if so, did you hear complaints from any of them that they felt their consultation or their participation was not in fact listened to?

Ms. Daphne Meredith: Thanks for the question.

Mr. Chairman, I'm going to turn to Ms. Payant to answer in detail. She was there for the duration of the sessions. I was there only for the introduction. I saw the large group and sort of kicked off the sessions.

I understand there were several deck presentations made to the group. They wouldn't have waded through the text of the business rationale in the form that we publicly released it on May 7, but they saw the foundation of it.

To me, what was of interest was how that business rationale and the report on the consultations were received by industry. And the feedback that we've had has been positive, in general. Now obviously there are trade-offs in these things. Not everybody is going to be perfectly happy. But I'm satisfied with the response to the report that we issued publicly on May 7.

Christine, do you have anything to add?

• (1555)

Ms. Christine Payant (Director General, Product Management, Information Technology Services Branch, Department of Public Works and Government Services): Yes. Just to add, we received very positive feedback, in fact, once we released the final consultation report and the business rationale. And it was acknowledged that we had made significant changes to our procurement approach, that we were proposing significant, positive changes to our proposed procurement approach and that we listened to the feedback received from industry. So yes, very positive comments were received following the release of those two reports to the participants of all the consultation sessions.

Ms. Martha Hall Findlay: Thank you very much.

The Chair: Thank you, Ms. Hall Findlay.

Madame Faillie, I'll allow you five minutes, but we won't be coming back to you if we have a second round.

[*Translation*]

Ms. Meili Faillie: Thank you, Mr. Chair.

I do not think that you can answer the questions given your previous statement. I would ask that you read my report and that you confirm for us in writing what portions were deleted and who made the decision to delete them. I would also like you to tell us whether this passage was the subject of discussions within the department. In light of the tape analysis and what has been going on for two, if not three months now, I am confused by your attempt to keep information from us and to hinder our work as members.

If my privilege still applies, Mr. Chair, I would like the minister to read my report and to justify why certain comments were deleted. I would also like Public Works to tell us why the business case has still not been submitted. The committee may have overlooked this, but on March 24, it requested a business case, which the deputy minister agreed to provide.

I also have questions about the costs. Ms. Payant seemed to be saying that the industry was satisfied. But the first disc for the afternoon of January 15 contains troubling statements by Treasury Board. The passages are indicated in my report.

[English]

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): I have a point of order.

We're going into the actual guts of the business plan issue. If that is our intention as a committee, then so be it, but we're here to check the veracity of the tapes. We're here to check whether or not the information provided by Public Works is correct.

If Madame Faille is correct and hours and days are omitted from those tapes, then Public Works will be back here and had better find a solid explanation for that.

[Translation]

Ms. Meili Faille: I agree with Mr. Kramp.

[English]

Mr. Daryl Kramp: If that is wrong, then we would expect an apology for an error from Madame Faille, but I think that should be forthcoming either way.

For us to be going on a tangent and getting the reasons for the business case and so on...if we want to rehash the deal, that's the government operations committee's job. It's not our duty as the public accounts committee to do that. Let's just stick to our mandate one way or the other, because, Chair, it's out of order going this way from what the original purpose was.

The Chair: Madame Faille, as to the business case, we will try to stick to the tapes, but where are you coming from?

[Translation]

Ms. Meili Faille: I was expecting to find information about the business case on the tapes. Unfortunately, information is missing. Can they confirm whether the missing portions are related to the business case, or if there is something else? Earlier, the deputy minister said that she could not tell us what had been deleted because she herself had not done it. I give her credit for that. However, I would like her to tell me in writing which sections were deleted and how the department went about those deletions.

But, and I agree with Mr. Kramp, if...

[English]

The Chair: Let's continue on the tapes.

Madame Faille, in her well-prepared report, has identified what she alleges. She hasn't proven, but she's alleged there's a lot more missing from the tapes than as stated by the Department of Public Works and Government Services. The assistant deputy minister has indicated she doesn't know. We will give her an opportunity to come back with a written report to the committee giving us the facts. There's no point in asking more questions about what's missing because she doesn't know and she's indicated that.

Again, colleagues, there's a larger issue here that I haven't heard any questions on, and that is whether or not the Privacy Act applies.

• (1600)

Mr. Andrew Saxton: Mr. Chair, may I interject when you're done?

The Chair: Mr. Saxton, on another point of order.

Mr. Andrew Saxton: We're obviously hearing some very different stories from Madame Faille versus what we're hearing from the Department of Public Works. Why don't we now put forward a motion—

Mr. David Christopherson (Hamilton Centre, NDP): That's not a point of order.

Mr. Andrew Saxton: —that the public accounts committee hold an in camera meeting to listen to these audio cassettes and verify the differences.

Right now it's just allegations.

The Chair: Mr. Saxton, we'll decide that a little later. We're going to ask for Public Works to come back to us with a written response to these.

In fairness to Public Works, they've only seen this...in fact, they've never seen it. They were not given a copy beforehand, so it's unfair; she cannot answer the questions.

I think in fairness to the officials here from Public Works, we will invite them to get back to the committee, within two or three weeks, on what is the situation with the tapes. I think that's fair.

[Translation]

Ms. Meili Faille: Mr. Chair, I have nothing further to add. As things stand, they cannot answer us because they are not familiar with my analysis, they are not the ones who did the work. Since Ms. Payant was at the meeting, I was trying to see whether she could give us more information, more details.

Therefore, I ask that PWGSC send us their response in writing.

[English]

The Chair: Thank you very much, Madame Faille.

Do you agree with that, Ms. Meredith, that within, let's say, three weeks you will provide the committee with a written response as to the discrepancies?

Ms. Daphne Meredith: With the reason for any discrepancy and what we see as being deletions—

The Chair: Yes.

Ms. Daphne Meredith: Yes.

The Chair: That's a fair request.

Mr. Saxton.

Mr. Andrew Saxton: Mr. Chair, they already supplied us with a written letter on June 15 explaining what took place. How would you write a different letter in the future?

The Chair: We'll let them respond to that, Mr. Saxton. If they want to say that it's their final statement, that's fine.

Mr. Young.

Mr. Terence Young: On a point of order, Mr. Chair, Public Works Canada sent out these CDs to all the members of the committee. I'm wondering if this isn't just some kind of technical error. Perhaps in Madam Faillie's CDs, when they made them up, there was a mistake, or something didn't work in the equipment correctly or something.

The Chair: We don't know that.

Order.

Mr. Terence Young: We're not going to get any further on it.

The Chair: Members, we're going to move on.

Mr. Christopherson, five minutes.

Mr. David Christopherson: Thank you very much, Chair.

First of all, I want to congratulate and thank Madam Faillie. I had a chance to meet with her earlier to review her documents, they were so lengthy. I've never seen anything like this. I don't know about colleagues, but I've never seen anybody undertake as much effort as has happened here.

So regardless of where we end up, thanks to Madam Faillie for setting a very high standard for what it means to be an MP and to follow up tenaciously on an issue.

Regardless of whether there are big gaps or little gaps, we know there are some gaps. The principle is still the same. We'll deal with the volume and whether there is more to be dealt with in a different venue, but we do know that you've deleted the names.

Correct? Yes.

You do know that you were requested to provide unaltered documents, or unaltered material. As I understand from your presentation today, upon "legal advice" the decision was made. I think I can see where the legal advice came from, but who is responsible for making the decision following advice given?

Ms. Daphne Meredith: The deputy minister is. I'm the associate, so it would be me in his absence.

Mr. David Christopherson: Okay.

Now, here's our problem. All along you have claimed that the Privacy Act is paramount to you. You're acting in that regard, ignoring our requests. I mean, you've decided that this supercedes anything we have to ask.

As soon as that happened, we did what anyone would do: we went and saw our lawyer, who happens to be the parliamentary law clerk, the top lawyer in the whole outfit.

His June 3 letter to us, which I think you may have in front of you, reads, in part, "In my view, the Department need not be concerned about proceedings against it under the Privacy Act."

Number one, then, the legal advice is that since it's Parliament asking for it, any concerns that you might have about Privacy Act matters affecting this we take responsibility for by virtue of us asking for it.

So the first issue is taking it upon yourselves, as a department, to deny a standing committee of Parliament material that it's asked for.

Secondly, the response to that concern is very clear right here. I'd like to know how it is a departmental lawyer's advice supercedes the authority of this committee and the advice of the parliamentary law clerk.

• (1605)

Ms. Daphne Meredith: Thanks for the question.

Mr. Chair, I think it probably comes down to a difference of view on the application of the Privacy Act.

I do have Mr. Walsh's letter in front of me, and—

Mr. David Christopherson: Is he wrong?

Ms. Daphne Meredith: Well, he says that the department "is concerned that providing the recordings to the Committee would put it in breach of the Privacy Act and liable to proceedings being brought against it under this Act".

As I understand it, he says that since there is no danger of proceedings being brought against us under this act, therefore we shouldn't be concerned. As I understand it—I'll turn to my colleague from the Department of Justice—the Government of Canada's obligation to respect the Privacy Act is sort of an absolute obligation. It's not material to us whether there would be liability proceedings against us.

Mr. David Christopherson: I'm short on time. Let's hear the legal thing, and then we'll hear from our legal beagle.

Ms. Ellen Stensholt (Senior General Counsel, Legal Services Branch, Department of Public Works and Government Services): On whether or not Public Works would be liable, based on what we have said in these proceedings, Mr. Walsh is right. The precedent on that, the case law on that, is perfectly clear. The Gagliano case is the most recent.

However, as Ms. Meredith has said, Justice advises its client departments to comply with the law based not on whether we could be sued but on what we interpret the law to be. We don't act just because we think we can't be sued. We don't violate statutes. We don't recommend violating statutes. That is simply not a basis for principled advice, in our view. That explains the difference of view.

Mr. David Christopherson: Mr. Walsh, please, if you would, sir.

Mr. Rob Walsh (Law Clerk and Parliamentary Counsel, House of Commons): If I understand the comments of counsel and the assistant deputy minister at the same time, it appears to be that how the Department of Justice gives advice determines the rights of this committee, that the parliamentary rights of this committee, as a matter of constitutional law, are governed by how the Department of Justice sees its role as a legal adviser.

Mr. Chairman, I just find that the two don't connect. Clearly, this committee has constitutional status. The law of parliamentary privilege is clearly part of the constitutional law of the country. These committees are entitled to receive the information they ask for. If the practice of a given department, whether a legal practice or administrative, can trump this committee in its access to information, then Parliament becomes a joke. It's that simple.

There is some misconception here on the part of our witnesses to think that the role of Justice, as adviser to the government, somehow takes priority over the rights of a parliamentary committee, which ostensibly and legally is serving the public interest in its pursuit of information. I simply have to speak, and I don't mean to be disrespectful to our witness, Mr. Chairman, but it really is that simple. This committee is a constitutional body.

The proposition was stated in the presentation that no provision of subsection 8(2) of the act applies. Now, even if we for a moment academically suppose the act applies here, which it doesn't, subsection 8(2) has a provision that allows for disclosure pursuant to an "order made by a court, person, or body with jurisdiction to compel the production of information". This body, on a report to the House, can compel production of information. This body, in my view, fits within paragraph 8(2)(c). We're not a court of law, and maybe the government officials are accustomed to thinking in terms of courts of law and their subpoenas and court orders. But this body, when it sends its report to the House with a report that its requirement for documents has been refused, can get an order of the House compelling production.

There cannot be any question about that, in my view, as a matter of law. I have to speak in these terms, not with any disrespect to my colleagues from the Department of Justice, but only because this is a point that comes up from time to time. There is unnecessary confusion about it. For example, this committee, not for the first time, is taking up time dealing with an issue in respect of which, in my view, there shouldn't be any confusion. The committee asks for information. It gets it.

The committee might think twice about some of the information it's asking for, but that is the committee's call. The committee might decide not to pursue certain information out of the interest of privacy. That is the committee's call. That is not the call of any official to tell the committee it can't have information because they think better of giving it to the committee. That is fundamental as a legal matter. I'm not speaking politically or entering a debate. I'm speaking legally. That is fundamental to the constitutional status of committees of the House, and of the House itself, of course.

• (1610)

Mr. David Christopherson: Thank you, Mr. Walsh.

Thank you, Mr. Chair. My time is up.

The Chair: Yes, your time is up, Mr. Christopherson.

Mr. Saxton, for five minutes.

Mr. Andrew Saxton: Thank you, Mr. Chair.

I just want to follow up on Mr. Walsh's answer. The department seems to be in a difficult situation here because they are following the advice of their legal counsel. How can they go against the advice of their legal counsel? There has to be some kind of a remedy in place that doesn't exist right now to resolve this issue, because I can't possibly see how a department can go against the advice of its own legal counsel.

Mr. Rob Walsh: Mr. Chairman, the remedy, if you like, the way of resolving this, in theory, is that the committee would call in the minister of the department and hold the minister to account and say, "Minister, your officials are not giving us the information we are entitled to." Now, if the minister himself or herself likewise refused to give it, then you'd report to the House, and the House then would have an issue with the minister in the House as a matter of confidence. Do you know what I mean? That is the theory of how it works, but that doesn't take away from the principle.

The principle is as a matter of law that the committee is entitled to the information it seeks. But you are right, it can be difficult. The difficulty is the problem of enforcement. Yes, witnesses, departments of governments, agencies, whoever, private citizens could be in difficult circumstances where they have one principle of law telling them not to and the committee is telling them "Never mind, give it to us." That can be a difficult situation.

Mr. Andrew Saxton: Right, so it's difficult to blame the department in a situation like this because it's just following the advice of its own legal counsel.

I'd like to echo the words of my colleague Mr. Kramp that the business case of GENS has been studied at the government operations committee. That's not the purpose of this committee. The purpose of this committee is simply to look at these audio recordings and to address Madame Faille's concerns regarding the audio recordings themselves.

Now I'd like to ask the witnesses a question. First of all, thank you all for coming here today and presenting your case. What are the steps the department took to seek the consent of the participants?

Ms. Daphne Meredith: Thanks for the question. As I mentioned, 141 participants registered in these consultations, so our approach—and I'll let Caroline speak to the detail—was to determine, first of all, whether the personal information relating to these people was publicly available. The personal information was their name attached to their company name. Through legal analysis, that was determined to be the personal information we felt we could not divulge without their consent.

Based on using Google and the Internet, we determined that about 125, I think, individuals' names, plus company affiliation, were publicly available on the Internet and therefore we could release them without getting their consent. Therefore, 16 individuals remained from whom we felt an obligation to get consent, and to that end we called them and asked them. In most cases we received it. I think we received their consent in nine cases; in two cases we could not reach the people, and in five they declined to give us consent; they did not want their names released. Those were the steps we took.

We then had to technically excise those names from the audio recordings, which in itself was a serious technical challenge for us. We didn't have the equipment to do it in-house. We had to go to DND and use its equipment. It meant putting our audio recordings on a special and secure file it had and then going through the redaction process where you tried to zero in on the name precisely without getting any more information except the name, and that strained us, frankly, in terms of technical precision, to get the names out.

Mr. Chairman, we did go to a considerable length to focus on the personal information we felt we had a duty not to disclose.

Mr. Andrew Saxton: It's clear the department has gone to a great extent to make sure you did what you felt was necessary in this case.

Did those people know they were being recorded?

Ms. Daphne Meredith: They knew they were being recorded because at the outset of the consultation participants were told these proceedings were going to be recorded because we wanted to use their comments in writing our report. They were not told that the consultations were public. If they had been told that, we wouldn't have had the privacy issue that we had in this case.

Obviously, our department would get, as many departments do, many access to information requests a year. We don't consider this an access to information request per se. You're a parliamentary committee; we recognize the need to provide you with timely information. Nevertheless, information we hold that gets shared with others we treat carefully and systematically, and that's why we zeroed in on the issue of personal information that could be contained in these recordings.

• (1615)

The Chair: Thank you very much, Mr. Saxton. Thank you, Ms. Meredith.

I just have a question to you, Madam Stensholt. I agree with Mr. Walsh that the Privacy Act does not apply in this case. As I said before, statutes of general application do not affect the powers and privileges of Parliament.

We had your opinion, or your position, I should say. We checked it with one lawyer, a parliamentary lawyer; we checked it with another one. I checked with Derek Lee, who wrote the book on that issue. I read part of the book. I checked with Marleau and Montpetit, with May. I have two academic experts I use regularly, and they both... everyone is of the same view as Mr. Walsh: this is not a grey area, there's no discussion here. The Privacy Act does not apply. The department has an obligation to provide that material.

What the committee does with it vis-à-vis privacy, that's up to the committee itself. We would hope it would deal with it appropriately. Do you have any—

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): I'm sorry, but as a lawyer myself, and knowing that I'm wearing a hat as a member of Parliament—not as a lawyer, but as a member of a committee, and I have to perform my role as a committee member—I'm wondering about the role of the chairman providing legal advice to our committee, because I can think of several reasons why I would disagree with Mr. Walsh's opinion. I could think of courts that would impose obligations on us if we do receive privileged or private information that would make us very cautious in how we deal with it, in ways we may not be dealing with it even today. But I am not expressing my opinion as a lawyer, because I don't think it's my right role, so I'm troubled.

The Chair: My question to you, Madame, is whether there is any precedent—and the same principle will be followed in other Commonwealth countries such as Great Britain, Australia, New Zealand, Scotland, Wales—out there in the Commonwealth world that supports your position?

Ms. Ellen Stensholt: Mr. Walsh alluded to the fact that this issue arises not infrequently, and it very often arises in the context of the Privacy Act, because personal information and the privacy of individuals is a very important value in Canadian society. Departments have come here before parliamentary committees in the past, and they have taken the position that they themselves are bound by the Privacy Act. The parliamentary committee is not.

With respect, I think the way we reconcile the position...Mr. Walsh's position is that Parliament is supreme. I completely agree. When you explained to one of the members how this gets dealt with, you said in fact it ends up being referred to Parliament. This is, with all respect, a parliamentary committee. Marleau and Montpetit, all of the authorities, are clear that a parliamentary committee can order the production of documents or witnesses but cannot compel their attendance or their disclosure. Only the House of Commons can compel the disclosure. On that, I am sure there is absolutely no disagreement in this room. This is in every standard parliamentary text and practice.

The Chair: My question, though, is this: is there any precedent, any other House of Assembly that has supported your principle? There are all kinds of cases dealing with it. Are you aware of anything that would support your—

Ms. Ellen Stensholt: My principle, Mr. Chair, is simply that as a department, Public Works is bound to comply with the Privacy Act. When on other occasions other departments have come before this committee—and this I have obtained from the annual reports of the Privacy Commissioner—what happens is they make a determination that it is in the public interest. There is an exception under the Privacy Act, 8(2)(m), that says that we can release personal information without the consent of the individual if it is in the public interest to do so.

To date, my client is of the view that a case has not been made that the release of these five names in fact fits that category. There have been at least four precedents here in Canada, where once a department releases something without the consent of an individual using that exception, it is required, preferably beforehand and certainly as soon after the disclosure as possible, to inform the Privacy Commissioner. So this is tracked, these are statistics that are available, and this has been the route other departments have followed.

• (1620)

The Chair: Do you have any response, Mr. Walsh?

Mr. Rob Walsh: First, the courts have no jurisdiction with respect to parliamentary committees, and no court would make an order against a parliamentary committee. That's in response to the earlier member's comments.

On the point about the House versus committees, if I understand the witness correctly, what Marleau and Montpetit or other texts may be saying is that the committee can't punish for contempt, so the summons or a directive to produce information by a committee is not punishable by the committee. They have to report to the House, and it's the House, then, that could visit punishment upon a person if the House agrees that constitutes contempt. But the order for production of information has its origins in the committee, and that's the order to which persons are obliged to respond, failing which it could be the subject of a contempt proceeding in the House.

Ms. Ellen Stensholt: If the House supports the order of the committee, yes.

The Chair: Okay.

Mr. Rob Walsh: That's true, but that doesn't make the offence any less of an offence for happening here.

Ms. Ellen Stensholt: I think on this we're going to disagree, Mr. Walsh.

The Chair: What's the pleasure of the committee? It's almost 3:30. Mr. Christopherson has a motion on this issue.

Mr. Kramp?

Mr. Daryl Kramp: I'd like to have a couple of words. I don't need my full five minutes on this.

The Chair: We have another issue. No, I have no problem with that, Mr. Kramp. I would propose to allow three minutes for the Conservatives, two minutes for the Liberals, and then we would move to the next issue. Is that okay? I think that's fair.

Go ahead, Mr. Kramp.

Mr. Daryl Kramp: Being a non-lawyer, I'd just like to get a result. Quite frankly, we're arguing moot points back and forth like this. I see two dilemmas here. Number one is whether or not this can or should be made public to this committee. We have a legal right, arguably, and then we also have a responsibility as a committee to act in a moral and proper manner as well. We as parliamentarians have some enormous responsibilities. We cannot just decide that there is the legal ruling and we'll go ahead and do it. We have other responsibilities as well. Obeying the law is one thing, but we have to pass some mature judgment as to where we go with this case.

In a particular case like this, what we're talking about—if we accept the letter from Public Works—is 12 seconds' worth of tape. If we're talking about 12 seconds' worth of tape, why wouldn't we just go in camera and hear those 12 seconds' worth of tape? We're not worried about the Privacy Act when we're in camera, and we can see if the committee finds it acceptable or not. At the end of that, we know we can pass judgment.

I think it's a totally separate issue whether or not there is more time that has not been reported by Public Works, or by error, or rightly so by Madame Faillie. I think we could go down another road with that, and that's something that potentially we should have validated one way or the other with the work that was put into that. Right now, these tapes, I think we're just going around the whistle-jerk here. There's really no reason for this. Let's just go in camera and hear what the words are and then make a decision on that and enter it into the committee's words.

The Chair: Mr. Saxton, you have up to a minute.

Mr. Andrew Saxton: I'm not a lawyer. We've been dealing with a lot of legal issues here today. I am a former small businessperson, and I can tell you that the rights of the small businesspeople who did go and were recorded I think are the utmost of what we should be looking at. I can tell you that I would be reluctant to go and have myself recorded now, knowing that it's potentially going to be made public when I wasn't told that in the first place.

Legal arguments aside, do we want to be able to have small businesspeople in future come before various departments and share ideas with them? Because if we do, we're going down a very slippery slope by allowing those recordings to become public.

• (1625)

The Chair: Okay. I'm going to allow the Liberals two minutes. I'd like to put Mr. Christopherson's motion, and then I'm going to go on to the second part of the meeting. I'll ask for closing comments from Ms. Meredith.

Ms. Hall Findlay.

Ms. Martha Hall Findlay: Thank you very much, Mr. Chair.

I would like to support my colleague Mr. Kramp and my colleague Mr. Saxton. Having the double hats of being a lawyer and a businessperson, I could not agree more with Mr. Saxton. I think if anything can be learned here, it's that the next time consultations are had, they are going to be taped. The easy answer is to say to the participants that these are being taped and could be made public. Sheer participation would then be the consent needed to disclose it, if it were necessary.

I think if anything can be taken here from a positive perspective, it's that everybody has learned something about the process. I would also suggest that in those consultations, we as parliamentarians would have had every right to sit in on those consultations. We as an entire committee could have gone and sat in on those consultations. Therefore, we would have heard those names. That should support Mr. Kramp's view that at the very least we go in camera and we can hear the missing pieces of the tape and the issue should be resolved. With only the support of Madame Faillie's incredibly hard work, we look forward to hearing the response from the department as to the discrepancy.

The Chair: Thank you very much.

What I'd like to do now is perhaps ask for closing comments from Ms. Meredith. Before I do that, I'm going to take 30 seconds and say I agree with Mr. Kramp.

The way this should have been handled, as far as I'm concerned—and I'm just one member who doesn't even have a vote—the tapes, in their altered state, should have been given to Parliament. If there was anything in there the department thought should not have been in the public domain for whatever reason—and this happens quite frequently, national secrets are shown to parliamentary committees—that should have been pointed out to us, and the committee I hope would have dealt with it appropriately. That decision was taken away from Parliament. It was done by somebody in a department, and I think that's where we went off the rails.

It's quite right. This committee does not have the power to.... All we can do is report this to the House. For one last chance, Mr. Christopherson has made a motion that's in front of you. It's pretty clear. It's almost a repetition of a previous motion in this committee. For clarity, I thought it would be better to have it.

Mr. David Christopherson: Do I have one minute to speak to my motion?

The Chair: Yes, Mr. Christopherson.

We'll just wait until people get it.

Mr. David Christopherson: Very briefly, I'm not going to go into it a whole lot.

I'm not disagreeing at all with the comments the chair has just made in respect of Mr. Kramp. I agree that's the way it should be. I agree that this 12 seconds, and it may not sound like a lot.... I say to colleagues, you heard the chair ask our witnesses if there is any precedent. These things matter because they do set a precedent, not just in Canada but in our provinces and territories, and in the Commonwealth in particular. The principle matters significantly, particularly to opposition members, to ensure that we can get access to the same information government members can when we're dealing with issues.

The second thing I want to raise is that the process had us raising an eyebrow. There was resistance from the beginning. The first time, Chair, we were told there weren't transcripts. We wanted transcripts. They said we'll give you transcripts. It was too expensive to do the transcripts. Then we went to "the tapes are coming", and then there was a problem. I'm pointing out that this is not just in the cold. The principle that we receive the material and then we take it upon ourselves as members of Parliament and the committee to decide what we would do with the issue of privacy is the correct process. It starts with the principle of the department responding to a standing committee's request for information in its entirety, unampered.

Therefore, my motion speaks very directly. It's giving the department a chance to go back, give this a bit of a rethink because of what they've heard here, and I hope they'll respond. We'll deal with the issue of privacy. We'll take the responsibility. We're the ones who are accountable to the Canadian people, and then the proper procedures will have been followed.

•(1630)

The Chair: Okay. It is moved by Mr. Christopherson. I really don't want a long debate, colleagues, because we're out of time, but I'll allow a couple—

Mr. Daryl Kramp: I have the possibility of an amendment, if Mr. Christopherson would consider it.

Dave, I have no problem with your argument. I'd be prepared to go down that road once we've listened to the gap. If we deem this to be a prima facie case at that point, that would be acceptable because we feel there's more, and then I'd say fine. Our motion is just a little premature before hearing that information.

Mr. David Christopherson: If I can, and I'm open to a friendly amendment, so I'm willing to engage you.

Mr. Daryl Kramp: Something like, "After listening to—"

Mr. David Christopherson: Again, if I may, the process is that the department gives the committee everything in its entirety, uncensored, and then we would make that determination. If we believe there's no public interest to be served and that the individual privacy rights are paramount, then we would order those names removed before anything is made public. That's the key difference, Mr. Kramp, whether the department is doing that or whether we're being denied our rights and we would do it. What I'm saying is, give us the whole thing the way we asked for it, the way we're entitled under the Constitution, and then we will take responsibility. I suspect we'd be open to your method. I can see that as a follow-up motion, quite frankly, for a future meeting; that's our next step. The first thing is the principle that the department gives this committee, Parliament, the information it's asking for and then we take responsibility from there.

The Chair: Ms. Hall Findlay, for up to a minute.

Ms. Martha Hall Findlay: To get back to Mr. Saxton's point about the business people who participated, I think it's a very dangerous precedent if their confidences are challenged.

Maybe I could offer a friendly amendment, Mr. Christopherson. I'm completely in support of this, but on the basis that we keep the information, the audio recordings, in camera until such time as we can revisit the issue, just to protect the participants.

Mr. David Christopherson: I'm open to a friendly amendment that combines that with what Mr. Kramp said. I'm very open to amending my motion that way. I think it improves it.

The Chair: I don't even know if it requires an amendment. The clerk can take instructions from that.

Mr. David Christopherson: Yes.

The Chair: The motion is that it be deposited with the clerk, and we can instruct the clerk to bring it to the next steering committee and then deal with it there, not circulate—

Mr. David Christopherson: But we do have that understanding, at least, among ourselves, that this is going to be our next step.

An hon. member: Yes.

Mr. David Christopherson: I am absolutely cool with that.

An. hon. member: No problem.

The Chair: Okay.

You've heard the debate. All in favour of the motion, raise your hands.

Ms. Martha Hall Findlay: It includes in camera.

Mr. David Christopherson: Yes, in camera.

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

The Chair: Any closing comments, Ms. Meredith?

Ms. Daphne Meredith: No, Mr. Chairman, except to say thanks for the opportunity to come today and explain our position.

I must say that it took us a lot of effort to try to zero in on that personal information. When I was first presented with this situation, I was told that it would take us until sometime in July. I said we absolutely couldn't do that. We tried to compress it so that we could get the response to the committee much sooner than that. It may not have been as quick as many members wanted, but we certainly went to great effort to provide you with what we thought you wanted.

The Chair: On behalf of the committee, I want to thank you for your assistance. I want to thank you for your attendance today.

Again, these disputes we have in life are common. We have them from day to day. That's life.

Thank you very much.

We'll now take a short break.

• _____ (Pause) _____

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• (1635)

The Chair: I'll call the meeting back to order.

We welcome the witnesses.

This meeting is called to deal with the procurement process for the integrated relocation program, chapter 5, "Relocating Members of the Canadian Forces, RCMP, and Federal Public Service", of the November 2006 Report of the Auditor General of Canada.

Colleagues, this issue has been with the committee for several years now. It's had a checkered past. It came before the committee, and we wrote a report in May of 2007. We made certain recommendations. One of the recommendations was that the contract be retendered when it did end, which is at the end of this year.

I just want to make a few statements. I've made them before, members. I'm going to repeat them here again.

I consider this, as your chair, a sensitive issue. Because we're in the middle or in the late stages of an ongoing bidding process, I'm going to urge members to use extreme caution in the questions. As has been said a thousand times before, we're a committee of accountability, not management. It's not our job to embed ourselves within the Department of Public Works and Government Services. We cannot rewrite this request for proposal. We cannot amend it, we cannot change it. So just keep our questions and our comments to the framework.

As to the recommendations that the committee did make in May of 2007, I am prepared to rule out of order any questions about the details or any discussions with prospective bidders and certainly any questions about who was bidding, who may be bidding, who may not be bidding—just anything of those details that would be proprietary or relate to what's going on now. It is a system of accountability. In fact, in the briefing book we got, question four is, "How many proposals has PWGSC received to date for the relocations program tendering process?" That would be, as far as I'm concerned right now, out of order.

Having said that, I want to welcome the witnesses. We have back with us the associate deputy minister, Daphne Meredith. She's accompanied for this one-hour session by Liliane saint pierre, assistant deputy minister, acquisitions branch; Mr. Scott Leslie, senior director, special procurement initiatives directorate; and Ellen Stensholt, senior general counsel.

Welcome to the two new individuals, and welcome back to the two previous individuals.

I'm going to ask Ms. Meredith for her opening comments.

• (1640)

Ms. Daphne Meredith: Mr. Chair, thank you—again—for the opportunity to talk to you, this time about the government's procurement process for the new integrated relocation program.

I'd like to begin by recognizing the considerable work on this file carried out by this committee and by the Office of the Auditor General. I assure committee members that we have taken their recommendations and observations very seriously.

As members know, and as was identified in the November 2006 Auditor General's report, PWGSC's role is to be the contracting authority and interface between the operational departments and the private sector. Our client departments, in this case Treasury Board Secretariat, the Department of National Defence, and the RCMP, are the program and technical authorities. It is Public Works' responsibility to ensure a fair and open procurement process to enable our clients to meet their program needs. The program and technical authorities are responsible for the definition of their requirements as well as the evaluation criteria to be used to assess the proposals submitted. Each department is accountable for its role within the process.

I am here, of course, to speak to Public Works and Government Service Canada's role and actions. I will not be able to address those issues that relate to the actions of program departments.

PWGSC has fully implemented the applicable recommendations of this committee and the Auditor General. We have retendered the contract to meet the deadline of November 2009. We have required the client departments to verify and certify the business volume information included in the request for proposals. We have provided to this committee and to the Office of the Auditor General the requested action plans and progress reports.

Together with the three program departments, we have used the lessons learned in the development of the current request for proposals. We have amended our policy to require that more than one departmental resource evaluate the financial component for all high-value procurements. We have instituted appropriate procedures to ensure that briefing materials allow appropriate management oversight and review. We have supported the three program departments to ensure that all invoiced rates are in accordance with the contract.

These actions, together with the actions you have asked of the program departments, are expected to mitigate financial and procurement risks and improve the government's overall management of the program.

Furthermore, we carried out a comprehensive consultation with the relocation industry and received more than 400 comments. This input has had a substantial impact on the new approach.

As an additional level of assurance, an independent fairness monitor, selected through a competitive process, has been engaged to review and report on the procurement process. To date he has not raised any concerns.

Finally, the request for proposals was released on April 29 and closes June 22. This allows a fair and reasonable time for bids to be prepared. The 55-day RFP period is not an unusually short period of time. It is in fact longer than the time promised for the three previous relocation RFPs. It is our intention to award the new contract by September 1.

In addition to the three-month transition period between the award of the new contract and the end of the existing contracts, a further three-month ramp-up period will be allowed to ensure that a non-incumbent contractor would not be at a disadvantage. This initiative to provide for a six-month start-up period was presented to industry during our consultations, and no concerns were expressed.

Mr. Chair, I'm convinced that the appropriate actions have been taken and that the procurement process is fair and reasonable.

In closing, I would like to note that it is highly unusual for a Public Works official to comment publicly on a request for proposals during a solicitation period. Our practices to ensure that all bidders receive the same information regarding a solicitation at the same time are there to protect the principles of fairness and consistency.

Under our standard procedures, all communications with industry during the bidding period are carried out on MERX. Any and all questions, together with the departments' responses, are posted on MERX, where the information is available to all at the same time.

•(1645)

We're concerned that statements made here today with respect to the request for proposals or its procurement process may be interpreted as modifications or as providing additional information not included in the request for proposals. Such information may not be available to all the potential bidders, and therefore some bidders could be disadvantaged.

I understand that you've expressed your sensitivity to that issue, Mr. Chair, and I appreciate that. I hope that members of the

committee will understand that there may be limits, particularly with respect to any interpretations regarding the request for proposals, to what I can say in response to your questions.

Thank you.

Mr. John Weston: On a point of order, Mr. Chair, I'm just wondering, given what Ms. Meredith said, why are we not in camera?

The Chair: We normally hold our meetings in public. If the committee wants to go in camera, that's the committee's decision. It's not my decision.

Mr. David Christopherson: What are the grounds for going in camera?

Mr. John Weston: Well, you've heard the statement—

Mr. David Christopherson: But the chair has already said we can't ask questions in that regard anyway. Before you ever get to them, you're not going to get past him.

Mr. John Weston: I would rather have a full and candid discussion in camera than a discussion where everybody's guarded about what they should be asking or what they should be answering.

Frankly, I don't know what the boundary lines are, Mr. Chair.

The Chair: Mr. Weston, whether we go in camera is entirely up to the committee.

Even if we go in camera, the same restrictions will apply in the questions. There will be no greater latitude in the questions in camera than in public. But again—

Mr. John Weston: Things can slip out. Our witnesses, I suspect, would be more comfortable if we were in camera.

I have no axe to grind in this regard, but it just seems to me that if this is going to be a useful hearing, we should be as unencumbered as we can be within the limitations imposed on us by parliamentary procedure and rules.

The Chair: Well, then, I urge you to make a motion to go in camera.

Mr. John Weston: I so move.

Mr. David Christopherson: I disagree; I'm always open to listening, but I haven't heard a good reason. Going in camera and throwing the media out is a big deal, and I just don't see the grounds.

Mr. Terence Young: The witnesses have already made it clear that they're uncomfortable.

Mr. David Christopherson: The chair's not going to allow those questions anyway. Good Lord, it's not complicated.

The Chair: If I may interject here, members, you'll appreciate that we're under some time constraints. I will allow two more interventions. Then we'll put the question to go in camera.

Mr. Young, Ms. Crombie, and then we'll put the question.

Mr. Terence Young: The witnesses have already said that it's highly unusual for Public Works to publicly comment on a request for proposals during the solicitation period. I think the reasons are obvious to everyone in this room. They've also said that they're very concerned that any statements made with respect to the RFPs or its procurement may be interpreted as modifications, etc.

I understand the sensitivity. I think everybody in this room would understand the sensitivity. If somebody makes a mistake, or somebody says something they shouldn't, or, God forbid, the chair makes a mistake, it could be difficult with regard to the process. Why take the risk?

Thank you.

Mr. David Christopherson: By that argument, you could be in camera all the time.

The Chair: Ms. Crombie, you have up to one minute.

Mrs. Bonnie Crombie (Mississauga—Streetsville, Lib.): Mr. Young, we will employ the utmost sensitivity. I feel comfortable that the chair will rule any comment out of order should we go into grounds that we shouldn't.

We're all about openness and transparency. We know what the rules are. We're all adults. I don't see a problem.

The Chair: All in favour of converting to an in camera meeting, raise your hand.

Mr. Andrew Saxton: Can we get a recorded vote on this, Mr. Chair?

• (1650)

The Chair: You can if you want.

We're voting on the motion that the committee sit in camera.

The Clerk of the Committee (Ms. Joann Garbig): Mr. Chair, it is a tie vote.

The Chair: Given the sensitivity of the matter, and given that the tender, I believe, is due in a day's time or two, it would be my decision to go in camera.

I will so order the clerk to make the change.

(Motion agreed to: yeas 6; nays 5)

The Chair: I would ask that the room be cleared of people other than members of the committee, the staff of the members of the committee, and employees of the House of Commons.

We'll suspend for thirty seconds to allow that to happen.

[*Proceedings continue in camera*]

- _____ (Pause) _____
- _____

[*Public proceedings resume*]

- (1730)

The Chair: Okay. I call the meeting back to order.

We are resumed as a meeting of the public accounts committee. We've just concluded an in camera session.

Mr. Christopherson, you have a comment, I believe.

Mr. David Christopherson: Just for the record, it is that the minutes reflect that the committee is satisfied with its review of this and we have no further interest in this file, or whatever words are appropriate.

The Chair: I think you may want to rephrase that just a bit.

Mr. David Christopherson: I'm sure it just got better.

The Chair: Is the committee in agreement that this is the conclusion of our study into this matter? That's the way it has been put.

Mr. David Christopherson: Agreed.

The Chair: Is there consensus on that point?

Some hon. members: Agreed.

An hon. member: What a committee.

The Chair: What a committee.

Madame Faillie.

[*Translation*]

Ms. Meili Faillie: I want to thank my colleagues for giving me five minutes earlier to table my report. I will tell you that it was pretty tough to hold public consultations over eight days. I would be pleased to provide guidance during the next steps. Since it is my birthday, this was a nice gift from my colleagues. Thank you.

[*English*]

The Chair: The meeting is adjourned.

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