

**Legislative Council Panel on
Information Technology and Broadcasting**

Special Meeting on 7 June 2011

Internet Learning Support Programme

**Opening Remarks of Miss Elizabeth TSE,
Permanent Secretary for Commerce and Economic Development
(Communications and Technology)**

Chairman,

1. I would like to make three clarifications in response to Mr Godfrey's allegations.

First: Strict adherence to the rules of the game and the principle of fair play is fundamental to any competitive bidding process. This applies to all public officers. And there is no room for compromise. I am minded to observe procedural propriety as a fundamental requirement, whichever post I am holding.

2. Mr Godfrey questioned: Given his preference for two proponents to collaborate, why should the review committee insist that he must conclude the "Request for Proposal" (RFP) exercise before proceeding with collaboration negotiations? The reason is simple. Under the terms of the RFP, each proponent is allowed to submit only one proposal. The Government can choose the best proposal; the Government has also reserved the right not to select any proposal submitted. But the Government cannot move the goal post in the middle of the RFP exercise. Inviting two proponents to collaborate in the middle of an RFP is no different from changing a proposal or asking for a new one. After completing evaluation of the five proposals, Mr Godfrey considered that it would be in the best interests of the low-income families if the programme could be executed so as to incorporate the best elements of the two leading proposals. On this basis, he recommended a "collaborative approach". As mentioned earlier, such arrangement was not envisaged and was not within the scope of the RFP. From a procedural point of view, therefore, the review committee advised Mr Godfrey to conclude the RFP first since he wished to pursue the collaborative approach. He should debrief the five proponents about the decision before commencing a separate exercise to explore the collaborative

approach. As shown in Mr Godfrey's email on 8 October 2010^a, he accepted this arrangement then. Mr Godfrey was aware that once he had concluded the RFP, he could not reinstate it or opt to select either of the best proponents unless with exceptional justification.

3. Mr Godfrey questioned: in considering fallback options to cater for the likelihood of the "collaborative approach" failing to work, why did the Bureau insist on adopting the "dual-implementer approach" and reject other fallback options? The fact is the practical choices for contemplating collaboration between the two organisations are limited. The first priority is for the two organisations to co-found an Implementer. Alternatively, the Government can set up a company to enable collaboration. Another option is split implementation in two geographical service zones. After rounds of negotiation, both Mr Godfrey and I fully realised that co-founding an Implementer by the two proponents was unlikely to be successful. Therefore we started to consider fallback options, one of which was for the Government to set up a Financial Secretary Incorporated (FSI) company and invite the two leading proponents to join. This FSI option required internal discussions and legal procedures, and would take longer. Moreover, we had no confidence that the two proponents could collaborate in earnest simply because the Government took the lead to establish the company. In November 2010, Mr Godfrey himself assessed this option as "not feasible".^b In early December, we re-considered this option simply because there were no other feasible alternatives. On 14 December, the Financial Secretary (FS) decided that we should first pursue the dual-implementer option with the "FSI" approach as the last resort. On 4 January 2011, tension surfaced again between the two proponents. I suggested the dual implementer approach to them for consideration. I decided not to pursue the FSI option since it was no longer possible for the two to work together effectively under one roof. We should be decisive having regard to the reality.

^a " 7. I remained of the view that the best interests of the community would be served if it were possible to establish a collaborative approach which draws on the best aspects of each of the leading proposals.

8. For this reason alone, I considered that I would be justified in concluding the RFP exercise without making a selection and pursuing a collaborative approach, rather than following the advice of the evaluation panel and selecting the leading Proponent.

9. I noted that the review committee has expressed no objection to my concluding the RFP exercise without making a selection, albeit for different reasons.

10. Taking into account the evaluation report, the advice of the review committee, and my own assessment, I decided not to invite any of the proponents to form an Implementer to take forward their proposal." [Extracts from Mr Jeremy Godfrey's e-mail dated 8 October 2010 @ 0110 pm]

^b "The FSI option is judged not feasible because of uncertainties about how long it would take to secure the necessary approvals and the risk of dysfunction on the Board if it was drawn from both HKCSS and eInclusion." [Extracts from Mr Jeremy Godfrey's e-mail to PSCT dated 26 November 2010 @ 0657 pm]

4. Mr Godfrey has suggested another option, i.e. inviting just the two proponents to revise their original proposals and re-submit these for Government's consideration. Since the two proponents already knew about the strengths and weaknesses of each other's proposal during the negotiation on collaboration, it was obvious that the impartiality of the re-evaluation exercise would be jeopardised. This proposal has intrinsic procedural problems. In December 2010, Mr Godfrey himself expressed reservation about this proposal.^c
5. The decision to pursue the dual-implementer approach was a collective one made after thorough consideration of all factors. It was more pragmatic in overall terms and could meet the implementation schedule of ILSP. Economy of scale as mentioned by Mr Godfrey was one of the considerations, but not the only one. Introducing competition between the Implementers might not necessarily be a bad thing. ILSP is not a small-scale programme; even under a geographically split approach, each Implementer still has some 150 000 target beneficiaries to serve. We have also capped the total administrative expenses for the programme.
6. I hope the above clarification will dispel Members' doubts on the selection process. As a civil servant, I always insist that the Government should act, and be seen to be acting, in a fair and impartial manner whenever competitive bidding or public funding is involved. We should not move the goal post as we wish.

Second: The civil service firmly believes in and upholds the principle of political neutrality. I would stress that throughout the course of my involvement in the ILSP selection process, I have never been put under pressure by anybody, nor have I pressurized anybody, implicitly or otherwise, to interfere with the selection outcome.

7. I had all along been advising Mr Godfrey that our guiding principles should always be the interests of the programme and procedural propriety. Mr Godfrey has confirmed this.^d I joined the Commerce and Economic

^c "11. We have considered launching a new selection exercise involving only the two organisations....
12. Nonetheless, there would be concerns over fairness and procedural propriety with this approach ...
13. A fresh selection exercise would also delay implementation by at least a month. The two leading contenders might complain that they expected the next step would be for them to begin implementation, not to devote more resources to a renewed bidding exercise." [Extracts from Mr Jeremy Godfrey's minute via PSCT, SCED, SFST to FS dated 1 December 2010.]

^d "18. She told me that we should do what we considered to be the right thing in the interests of the low income families. [Extracts from Mr Jeremy Godfrey's submission to LegCo ITB Panel dated 25 May 2011]

Development Bureau in April last year and did not take part in the design and evaluation of the RFP. The review committee was established in August last year, with participation of colleagues from the Treasury Branch and the Education Bureau. When we engaged the two proponents to explore collaboration between October and December last year, both Mr Godfrey and I were complained by the two proponents that we had appeared to be siding with the other party, which indeed bore out the Government's neutrality. In considering the fallback options, Mr Godfrey and I had different views. The final decision was Government's collective decision. The "dual-implementer approach" was adopted with the consent of both proponents. Concerns that the selection had been manipulated by the Government or individual officials were not true.

8. Mr Godfrey alleged that there was "political interference" in the selection process. Such allegations are misleading and unfounded. When Mr Godfrey reported the progress of the RFP in August last year, he did mention that during consideration of including this initiative in the Budget, he had the impression that FS wished that ILSP should be implemented by a social enterprise or an organisation with business sense, and that FS considered iProA a suitable implementation agent. At the time, Mr Godfrey stressed, and has re-affirmed recently, that he was not affected by this impression and had conducted the evaluation process in an unbiased manner.^e Mr Godfrey also said that FS had not given any instruction to him. Mr Godfrey did not appear to be disturbed by this view. My perception at the time was that Mr Godfrey was only reflecting his impression of FS's personal view, which did not imply that FS had any intention to influence the selection process. (In fact, in paragraph 12^f of his submission to LegCo, he himself agreed that an organisation with business sense like iProA could be a suitable implementer.) After hearing what Mr Godfrey had said, I called the FS's Office to ascertain the context giving rise to his impression. The message I got over phone was: FS had expressed his personal opinion during the pre-Budget stage about the merits of implementing the programme by a social enterprise or an organisation with business sense, and that iProA might have the requisite business experience. However, FS had never suggested, implicitly or explicitly, that the established selection mechanism should not be followed. I then explained this to Mr Godfrey and reminded him again to only follow

^e See para 15 of Mr Jeremy Godfrey's submission of 25 May 2011 to LegCo ITB Panel.

^f "I believed that a consortium that included iProA would have a very good chance of being selected in a fair process, as long as they produced a good proposal and as long as the evaluation criteria gave due weight to business expertise." [Extracts from Mr Jeremy Godfrey's submission to LegCo ITB Panel dated 25 May 2011]

prudent and fair principles. In early August 2010, when Mr Godfrey and I briefed the Secretary for Commerce & Economic Development (SCED) on progress of the RFP, FS's view was brought up again. I remember clearly that SCED said she was not aware of FS expressing any viewpoint on the matter. SCED told Mr Godfrey to complete the selection in a fair manner. She did not mention any preference on selection outcome.

9. Mr Godfrey alleged that I had confirmed more than once that there was a "political assignment" to give the project to a designated party and that this had come from "beyond the Financial Secretary". I strongly deny having ever suggested any "political assignment" for the ILSP. The phrase was Mr Godfrey's and was first imposed on me when he notified me on 5 January 2011 of his intention to seek early termination of his contract. Such accusation never appeared in any early exchange. The concocted linkage between "political assignment" and "beyond the Financial Secretary" is misrepresentation in its extreme. I have never suggested that anyone has ever interfered with the ILSP selection process. What I did say was that the ILSP involved the interests of many stakeholders "beyond the Financial Secretary". The five bidders — all heavyweights in the IT and social welfare sectors — would be closely monitoring developments. The Government must be extra careful to base its assessment on the merits of the case and on procedural propriety, lest we could fall victim to complaints and could even be summoned to LegCo. Around October last year, arising from speculation about the selection outcome in the community, media reports and LegCo concerns, the project was unavoidably politicised. Mr Godfrey was seriously disturbed by unsubstantiated reports on him. I advised him not to be too worried. "Political pressure" is used in the generic sense. The phrase "protecting me (him) from political pressure" meant just that.

Third: It is normal within the Government for colleagues to hold and articulate different views. Civil servants should respect decisions made in accordance with proper procedures under the system.

10. I am bound by duty as PSCT to work closely with Mr Godfrey. I respected his IT expertise. I also believed that my administrative experience is complementary to his work. Mr Godfrey has taken the ILSP project very seriously. He had strong personal views on how best to deliver the programme to bring the greatest benefits to the low-income families. As his supervisor, having observed possible procedural gaps in the evaluation process and the absence of a proper system of checks and balances in this \$220 million programme, I was duty-bound to suggest necessary improvements and ensure that the recommendations and selection he made were in full compliance with proper procedures and fair principles. It was

also my responsibility to report divergent views to my seniors and seek resolution. Since we had divergent views from time to time, Mr Godfrey became very sensitive towards me. Last December, in his email requesting contract renewal, he pledged to improve our working relationship to the point that I was willing to recommend renewing his contract. He also admitted in writing that he tended to overreact — even an unreturned call or advice given directly to one of his deputies would cause him unease and suspicion that I did not support his work.⁸ I repeated to him many times that I serve with integrity, and differences of opinion should not be taken as any suggestion of impropriety.

Conclusion

11. Mr Chairman, ILSP is an innovative initiative. I thank all organisations for having taken part in the RFP. I also thank the Implementers and colleagues for their commitment and hard work in the past few months in trying to implement the programme. The Government is confident that the two Implementers are capable of delivering effective Internet learning support services to low-income families. I hope Members will analyse the matter in perspective and in a fair and objective manner. Thank you.

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Permanent Secretary for Commerce and Economic Development
(Communications and Technology)

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⁸ “I have found myself with a continuing feeling that you are uneasy about my objectives and the approaches I am taking. Over time, this has led me to magnify the importance of even the smallest signals – an unreturned phone call or an instruction given directly to one of my deputies – and to interpret them as evidence of an agenda to block my plans. I recognise that these feelings are probably unfounded and that I should have articulated my concern and sought to resolve the issues.” [Extracts from Mr Jeremy Godfrey’s e-mail to PSCT dated 24 December 2010 @ 1225 pm]