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Chair

Mr. Pat Martin

Standing Committee on Government Operations and Estimates

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•(1105)

[English]

The Chair (Mr. Pat Martin (Winnipeg Centre, NDP)): Good morning, ladies and gentlemen. We're going to convene our meeting of the Standing Committee on Government Operations and Estimates. Welcome today to witnesses from the Treasury Board Secretariat.

We will be examining, and revisiting perhaps for some of us, the integrated relocation program, which keeps popping up just about every parliament but is very relevant for us today as we go into the prospect of renewing this contract in 2014.

I do have information for the committee regarding the *sub judice* rule on the examination of the past contract, which was in fact appealed by the government and is before the courts. I'm prepared to explain to you, if necessary, the rationale for why this committee is within its mandate to visit the issue in anticipation of or in the context of the next contract in 2014, to make sure it's a fair and open competition and that we receive the best value for the taxpayers' dollar invested.

The first item of business I know Linda Duncan wanted me to raise is that we have these witnesses scheduled for the first hour and the second hour is for the committee to study future business. I'm sorry, originally the second hour was to be with the fairness monitor—IT/Net—that oversaw the fairness of the contract. They were unable to attend. We were unable to reach them until the last minute, and sadly, the principals who were involved with that company during the oversight of the contract are no longer employed by the company. So for two reasons we don't have them here before us today, which frees up a second hour.

I'm going to suggest that if there's interest from committee members, we will ask this panel of witnesses to stay for an extra half hour, and we will study future business or planning in the half hour we have remaining. Is that agreeable to committee members?

Dan Albas, please.

Mr. Dan Albas (Okanagan—Coquihalla, CPC): Mr. Chair, I had planned out quite a bit of my day today for those kinds of things, so I think an hour is satisfactory. We've had these people here. I'd actually like to get into testimony right away so that we can make the best use of that hour.

The Chair: Linda Duncan.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Thanks, Mr. Chair.

Presuming they are available, I would have them stay at least an additional half hour. I have 1,001 questions, and an hour is awfully tight for everybody here to have a chance to ask questions.

I am strongly in favour of assigning additional time. We set aside the entire meeting to discuss this. Regrettably, we don't have the fairness monitor people, but we do have the department. I certainly have no shortage of questions available.

The Chair: John McCallum.

Hon. John McCallum (Markham—Unionville, Lib.): I agree with that. I don't think it will take us a full hour to do other business, so if the witnesses are available for an extra half hour, I think that would be a good use of our time.

The Chair: Andrew Saxton.

Mr. Andrew Saxton (North Vancouver, CPC): Chair, thank you. I believe it was planned that these witnesses would be here for one hour today. Is that not correct?

The Chair: Originally, yes.

Mr. Andrew Saxton: So it would be changing the agenda. I think people have planned for a full one hour with these witnesses and we should not change the agenda at the last minute.

The Chair: Point taken.

Mr. McCallum.

Hon. John McCallum: Perhaps I could move a motion that the committee extend its invitation to the officials from Public Works and Government Services to 12:30.

I know that's a change in the agenda, but I don't see why that's a crime against humanity.

The Chair: The motion is in order. It's a debatable motion. Is there any comment?

Mathieu Ravnignat.

[Translation]

Mr. Mathieu Ravnignat (Pontiac, NDP): I think that's a great idea. In any case, the committee business will not take up an hour. So we won't use the full two hours scheduled for our meeting. If we set aside a half an hour for questions on the Integrated Relocation Program, we will use the whole two hours and be more productive. I think that's why we are here, gentlemen.

[English]

The Chair: Next on the list is Ron Cannan.

Hon. Ron Cannan (Kelowna—Lake Country, CPC): Thank you, Mr. Chair.

We have our witnesses here. But I just want to clarify, through you to the clerk, why is the fairness monitor not coming today?

The Chair: Perhaps I could ask the clerk to explain some of the efforts he made, but he did try for a week or so to track them down and was unable to get any response. When we finally did track them down, the response was—and it was only Friday, I believe—that the principals involved in the company that was involved in being the fairness monitor had both recently retired. Nobody at the company thought they would have anything that they thought would be of value to share with the committee.

Perhaps, Marc-Olivier, you could expand on the conversation you had with them.

The Clerk of the Committee (Mr. Marc-Olivier Girard): That's pretty much it, Mr. Chair.

[Translation]

I have been trying to get in touch with them since Monday of last week. The situation is a bit strange. Usually, when witnesses don't want to appear, they say so. However, in the case of IT/NET, all I have heard all week is the sound of silence. Finally, as Mr. Chair said, I found out that the people to whom I was sending messages had retired last September.

I also contacted the company's reception desk. It's a bit of a mystery, but my messages have gone unanswered. The current IT/NET employees are aware of the committee's invitation. They are supposed to discuss it at the beginning of this week. I should be able to talk to them today or tomorrow and find out whether they want to appear before the committee, provided that you still want to hear from them.

[English]

The Chair: Mathieu, you have a motion, please.

Hon. Ron Cannan: Mr. Chair, I'm sorry, I still have the floor.

Just to clarify, once we've dealt with this motion, would it be appropriate to have another motion to invite them for Thursday?

The Chair: Absolutely.

When we get to the planning of future business, if we have a vacancy and there's still an interest in hearing from them, naturally that would be in order.

Mathieu.

Mr. Mathieu Ravignat: It's a little worrying. The fairness monitor is there to track fairness of procurement processes and various other matters. When parliamentary personnel, i.e., a clerk, can't contact the office and get an answer in a seven-day period, it's worrisome, not only for their appearance here in the future but for fairness in general.

We're talking about a lot of public funds. Obviously the Auditor General as well assumes that this person is in place and that this office is functioning. It's troubling. It seems to me that this underscores the importance of having them appear, and doing everything possible to have them appear. I'd like to get some explanation for their seeming inactivity in recent times.

Do we actually have a fairness monitor in place at this point?

•(1110)

The Chair: I don't know, although I've heard second-hand or third-hand that the same company will be the fairness monitor in this next contract, unless it can be demonstrated otherwise.

Linda, were you waiting?

Ms. Linda Duncan: Yes. I was just going to call the vote.

The Chair: We don't have a rule here where you call the question.

If anybody else still wishes to speak to the motion, the motion on the floor is to extend the time we have with our witnesses.

All those in favour?

(Motion negated)

The Chair: We'll proceed then with the testimony from the Department of Public Works. I believe I said Treasury Board Secretariat at the opening, and of course that's not the case.

We have officials here from the Department of Public Works and Government Services. I believe the delegation is led by Mr. Pablo Sobrino.

Mr. Sobrino, I know you have opening remarks, and perhaps you could introduce the colleagues you have with you today.

Mr. Pablo Sobrino (Associate Assistant Deputy Minister, Acquisitions Branch, Department of Public Works and Government Services): Yes, Mr. Chair. I'll do that.

Good morning. I am pleased to appear before you today to discuss the integrated relocation program. I am Pablo Sobrino, the associate assistant deputy minister for the acquisitions branch at the Department of Public Works and Government Services Canada.

Here with me today are Mr. Normand Masse, the director general who oversees the services and technology acquisition management sector, and Monsieur Vincent Robitaille, senior director of the professional services procurement directorate.

[Translation]

The Integrated Relocation Program provides federal government employees, members of the Royal Canadian Mounted Police and members of the Canadian Forces with services to assist with their relocation to new work locations owing to operational requirements. Those relocation services, including, but not limited to, relocation planning, marketing assistance and destination services—such as planning for purchase or rental of a replacement residence, payment of legal fees, and home inspection—are critical to support about 19,500 individuals who move each year.

As a common service provider for acquisition services, the Acquisitions Branch has the mandate, with respect to the Integrated Relocation Program, to carry out a fair and open procurement process to award contracts for the overall administration and delivery of those services.

As the committee members know, a November 2006 Auditor General's report concluded that the procurement process that led to the award of the 2004 contracts was not tendered in a fair and equitable manner, owing to the inclusion of an inaccurate estimate for third-party property management services.

[English]

Further to the release of the Auditor General's report in March 2007, an unsuccessful bidder, Envoy Relocation Services, filed a statement of claim in the Ontario superior court seeking \$62 million in damages for lost profits, bid preparation costs, and alleged damage to its reputation relating to both the 2002 and 2004 procurement processes, plus punitive damages.

The trial commenced in September 2011 and concluded in December 2012. On April 6, 2013, the Ontario superior court released its judgment in favour of Envoy. The government has not yet completed its review of the decision of the Ontario superior court. In order to protect its right to appeal within the timelines prescribed by the court, the government filed a notice of appeal with the Ontario Court of Appeal. Since the matter is before the court, it is not appropriate for us to comment further on this particular case at this time.

[Translation]

Also further to the release of the Auditor General's report, in May 2007, a report was released by the Standing Committee on Public Accounts. It recommended that Canada not exercise the options to extend the duration of the 2004 contracts, and that the requirement be re-tendered. PWGSC has accepted and fully implemented the recommendations received from both the Standing Committee on Public Accounts and the Auditor General.

•(1115)

[English]

As such, following industry consultations and a competitive request for proposals, a contract was awarded to Brookfield Global Relocation Services—formerly Royal LePage Relocation Services—in August 2009. Valued at \$151.2 million, this contract is valid until November 2014, with two one-year options available that could be exercised to extend it until November 2016.

We are currently working towards the launch of the next competitive procurement process for the integrated relocation program and would be pleased to discuss our progress. However, please note that while we are able to discuss high-level lessons learned that are informing how we will undertake the next process, in order to preserve the fairness of the upcoming process we are unable to address specific details related to the procurement strategy.

In addition, we can't really speak to specific technical requirements, as those are the responsibility of our client departments, the Treasury Board Secretariat, the Department of National Defence, and the Royal Canadian Mounted Police.

[Translation]

For these reasons, I hope that the members of the committee will understand that there may be limitations to what I am able to say in response to your questions, particularly with respect to any interpretations regarding the upcoming request for proposals.

Thank you.

[English]

The Chair: Thank you, Mr. Sobrino.

I suppose, given the final comments you made regarding the *sub judice* rule and the fact that it is before the courts, it might be appropriate for me to read this brief legal opinion that we received from the parliamentary law clerk, which may set the context as to what would be permissible to respond to and what wouldn't.

We should note that the leave to appeal was filed on May 16, which was last Thursday, I believe. I don't know whether it's leave to appeal the penalty or to appeal an error in law, but that would make some difference as to what we comment on. If there is an error in law, that's broader and more encompassing; if it's the \$40 million penalty, that narrows what we can discuss here.

Let me just read one paragraph by the parliamentary law clerk:

The sub judice convention extends to the subject matter of the *lis*, rather than to the entire topic at hand. In practical terms, this means that participants in [the government operations committee] should leave the judicial branch to render its decision on the actual legal dispute free from parliamentary interference, and should therefore refrain from engaging in discussion of the specific points in legal contention in this case. The application of the convention does not mean that the Committee is precluded from discussing the entire subject matter of relocations, especially policy questions. In fact, the Committee should not be impeded by the convention from discussing the general questions of policy involved in relocation, nor the general practices of the government of Canada in this area of public administration. The comity and restraint ensuring the ability of each branch of government to function without interference by the other runs in both directions.

If that is helpful to members as they frame their questions, it may give some guidance as well to our witnesses as to what they can and cannot answer.

But it raises the question of whether the notice to appeal or the leave to appeal is for the penalty or the actual details of the tendering and the practice and the oversight and fairness, etc., of the contract.

That said, the first questioner is Mathieu Ravignat.

An hon. member: No, no.

The Chair: Well, my list says Mathieu Ravignat.

Ms. Linda Duncan: That's a mistake.

The Chair: It will be Linda Duncan apparently.

Ms. Linda Duncan: Thank you. We will wait with bated breath for Mathieu Ravignat.

Thank you very much to the witnesses. We'd like to have you for longer, but I guess you're not allowed to, so we'll try to be efficient in our questions. It's nice to see you all again.

I will try to skirt around the particular incident of Envoy because it is being litigated, but what I am interested in.... I'll ask a very specific question first and then I have more of a broad-based one.

The government contracts regulation, SOR/87-402, section 18, makes it mandatory that any contractor making a false declaration in information provided in the bid is deemed in an act of default. The government is then given the discretionary power to terminate a contract and recover any money given out.

Has Public Works ever terminated a contract under that rule, and in what situation would Public Works consider terminating a contract under that regulation?

• (1120)

Mr. Pablo Sobrino: We haven't gone through that experience. We do terminations for convenience, but we haven't terminated under that particular section of the regulations, to our knowledge.

Ms. Linda Duncan: Maybe I'll move on to the broader question. A number of authorities have made recommendations on improving the fairness in the tendering process. The Auditor General's report, of course, in 2006 recommended that more than one person evaluate the financial side of tendering and that detailed briefings be provided for senior management in all major contracts. There was also a previous Federal Court ruling.

We had the public accounts committee making a number of very strong recommendations, including for Public Works, Treasury Board, and client departments—a certification process to check the veracity of RFPs, and whether Treasury Board has provided public accounts a full explanation for failure to disclose information to the Auditor General, and so forth.

Can you tell us what new measures have been taken, say since 2006, to address these series of recommendations by the Auditor General, by the courts, and by the public accounts committee to avoid situations of fraud, collusion, or bid rigging?

Mr. Pablo Sobrino: Absolutely.

The first thing is on the evaluation of the financial component of a bid. Our procedures have changed; we now require two or more to participate in that evaluation. We also do the governance regime on more complex procurements. This would be qualified as a complex procurement, and it now has a DG steering committee, so at the director general level, that works across client departments and is chaired by Public Works and Government Services.

We also now have an ADM committee as well that meets during the procurement process. This is a process that we use for all complex procurements and not just this particular one. These measures have been put in place since that observation as a permanent kind of policy application.

The other element that we've introduced, of course, is a procurement code of conduct for Public Works and Government Services employees. We also have the integrity measures that have been introduced, with changes as recently as last November, which affect those external companies that we do business with.

That's a full scope of the many measures we've put in place since, I believe, 2009 or 2010.

Ms. Linda Duncan: I want to ask you about this fairness monitor office that has been set up. I can't talk about the court ruling, and presumably we will have you back when the government finishes spending taxpayers' money to drag this case out. The court found a completely different finding than the fairness monitor.

I know you can't speak to the particular case of Envoy, but I'm wondering if, as a result of some of the findings in that litigation and by the Auditor General, you are giving second thought to the way the fairness monitor office is set up. Are you giving consideration to

establishing something like a full-time procurement ombudsman for these larger procurements?

Mr. Pablo Sobrino: I will just speak to the fairness monitor. The fairness monitor is an independent third party that our departmental oversight branch, which is an independent group within the Department of Public Works.... A colleague, an assistant deputy minister, administers the program.

The fairness monitors are hired under contract to do any procurement where we believe a fairness monitor would be useful. So any complex procurement generally has a fairness monitor. They're independent contractors. They're from external companies.

• (1125)

Ms. Linda Duncan: I'm aware of what they are. I'm asking if you're giving consideration to changing the way the monitoring of these contracts is being done.

Mr. Pablo Sobrino: Right now we have improved the statement of work. We've had discussions with a fairness monitor community to improve their ability to pronounce on fairness issues within the process. We would be happy to share the statement of work we now use for fairness monitors.

Ms. Linda Duncan: I would appreciate it if you could provide that.

Mr. Pablo Sobrino: And I should also say that IT/NET was the fairness monitor for the 2009 procurement. That is the fairness monitor report that is actually posted on our website as well, if you search for—

The Chair: Thank you, sir.

Next for the Conservatives, we have Mr. Ron Cannan.

Hon. Ron Cannan: Thank you, Mr. Chair.

Thanks to our witnesses. I'm just following up on the line of questioning from Madam Duncan. Today we're focusing on the 2009 contract award and what measures our government has taken to ensure that the process for procurement is much more fair, open, transparent, and competitive. Ms. Duncan talked about the AG report. You talked about how you have more than one person evaluating the process.

Can you maybe expand a bit more about one of the other recommendations from the Auditor General. It talked about ensuring that Public Works has briefing material prepared for senior management that contains "sufficient detail to allow appropriate management oversight and review". Could you explain the specific measures your department has taken to address this concern, and how you've done this?

Mr. Normand Masse (Director General, Services and Specialized Acquisitions Management Sector, Acquisition Branch, Department of Public Works and Government Services): Yes. What we established in those major procurements is setting up an extensive, internal, interdepartmental governance structure. Basically, all of those departments, including Public Works, and the clients, in this case, are being provided with regular updates on the project and regular briefings. The material is submitted and presented to those committees to ensure the monitoring and the proper governance. This is not only done for something like the IRP, but for all major procurement.

The fairness monitor—we talked about that.

The interdepartmental team as well is created in those major contracts. Again, it's to share the information and to develop a proper approach to procurement.

Hon. Ron Cannan: Thank you.

Moving forward now, going to the 2009 contract, can you explain or share with the committee how you've gone about certifying that the process...that accurate data is to be provided in the RFP? And was this implemented prior to the 2009 contract?

Mr. Pablo Sobrino: I'll quickly speak to that. The certification process was put in place that required the assistant deputy minister to sign off from the client departments on the information provided by those departments, on the volumes and usage of the program. We sought that because one of the issues that has come up in the past has been whether the data available was accurate or not. So that certification process is what we've put in place now.

Hon. Ron Cannan: Did the department, then, fully implement all of the AG's recommendations in the report, and prior to the initiation of this new tendering process for the IRP, as recommended by the PACP committee?

Mr. Vincent Robitaille (Senior Director, Professional Services Procurement Directorate, Department of Public Works and Government Services): Yes. All of the recommendations were applied for the 2009 procurement. And they will also be applied for the upcoming one.

Hon. Ron Cannan: Their current contract is scheduled to expire in November 2014. Many of us have been contacted by individuals who are concerned about going forward. Can you explain a little bit further? Ms. Duncan talked about engaging the fairness monitor. At what stage of the process is the fairness monitor engaged? At what stage is the third party engaged? And what are their roles?

Mr. Pablo Sobrino: We're beginning to launch the process, so we'll be engaging a fairness monitor in the very near future.

We'll be working with the client departments to put together their initial requirements, which will be based on the policies that they have to deliver on for their employees, so Treasury Board, RCMP, and the Canadian Forces.

Once we've put those requirements together, we'll be going out for a request for information to industry, and that will be the beginning of engagement with industry. At the beginning of engagement with industry, one of the fundamental questions we're going to ask is, how do we structure this procurement to get the right outcome? That

engagement will involve a set of questions. There'll be an industry day, there'll be a set of questions, and we'll wait for responses.

Subsequent to that, we'll get some conclusions out of that, which may require a second engagement with industry—or not, depending on the results of the information we get. On that we will then put together the request for proposal, and it'll be used as a draft request for proposal that will go back out to industry.

The fairness monitor oversees every one of these discussions, and they also oversee the meetings we have in terms of each of the steps in the process, so the internal meetings as well as the meetings with our clients and the meetings with industry.

Once the draft request for proposal has gone out, we receive comments and we do the changes required to that, based on those comments, and then go to a final request for proposal.

One of the things we will be developing in the process is an evaluation framework, which is how we'll evaluate the request for proposals. We are going to be engaging with an independent third party to do the evaluation, to assess if the evaluation is fair and does not favour an incumbent, and that it's treated fairly and openly.

The last element after that, once there is the request for proposal, is that the bids come in and then we have to prepare a Treasury Board submission for contract approval.

As you can see, there is a fair amount of time. We need the time to put all that in place so that we have a positive outcome at the end.

• (1130)

Hon. Ron Cannan: Thank you very much. That's very helpful.

I have just one last quick question. In 2009 you had posted a request for proposals to seek competitive bids for relocation services, and it was quoted as being on an “as is, when requested” basis.

Can you clarify what that means for the committee?

Mr. Normand Masse: Yes. Those contracts obviously depend on the number of people being moved. The idea is that this contract is on an “as and when requested” basis. It is a request for proposal. There was a minimum engaged or committed value for that contract, but then it depends on the number of moves the company is going to supervise. This is why it was put out like that, as opposed to being a firm requirement for x number per year, etc.

So it is only the format, because of the nature of the requirement.

Hon. Ron Cannan: Thank you very much for the clarification.

The Chair: That's good, Ron. Thank you very much. Your time has concluded.

Next, then, we will have Mathieu Ravignat.

Mr. Mathieu Ravignat: First, thank you both for being here.

Second, as you know, Canadians are worried about this, and they're worried because there seems to have been some jerry-rigging of this process. I don't want to make any accusations necessarily, but there is obviously a perception that there has been some jerry-rigging.

Even in 2009, Monsieur Robitaille, when you gave us assurances that certain steps were put in place to ensure fairness, the contract was awarded to the same company. Now we know that the minister at the time, Paradis—and I put it lightly—had some issues with ethics. There was a person attached to this program who was involved with the CIBC, which was the financial institution dealing with the particular company that received it.

So it's fine to solve it on the ground and talk about changes to criteria and process, but what about at the highest levels? What has been done at the highest levels—and I'm talking about the minister's office and the deputy minister's office—to ensure that this kind of influence can't continue?

Mr. Pablo Sobrino: I'll speak to that in a more general answer. I can't comment on those particular aspects.

The way we ensure integrity in the procurement process is very much around using process. The changes that we've put into the procurement system over the last three or four years have been about openness and transparency. The idea is to have independent third parties to document our governance decisions so they're publicly visible; to bring in a stated process that we follow with a timeline that is not compressed—in other words to have the adequate period of time for people to provide input; and to engage industry to have the procurement strategy shaped by industry, as opposed to our driving the procurement strategy.

That's a fair change. What it does is slow down the process, but it gives you more certainty that the industry recognizes that the procurement strategy is one into which they have provided input. With the use of the independent third parties that we bring in, it gives that assessment and that assurance.

• (1135)

Mr. Mathieu Ravignat: Right, and that's fine. I understand that you can't comment on the high-level issues.

Let's talk about process, then. Is there a fairness monitor in place right now for this contract?

Mr. Pablo Sobrino: Fairness, no, we do not have one yet in place. The procurement is about to begin. We will bring a fairness monitor in off our standing offers for fairness monitors.

Mr. Mathieu Ravignat: Who has the final say as to who that fairness monitor will be?

Mr. Pablo Sobrino: The assistant deputy minister of the departmental oversight branch.

Mr. Mathieu Ravignat: Does the minister have a role to play?

Mr. Pablo Sobrino: No. The minister doesn't play a role.

Mr. Mathieu Ravignat: Okay.

I'm going to go on in French if...?

[*Translation*]

Mr. Pablo Sobrino: Yes, absolutely.

[*English*]

Mr. Mathieu Ravignat: That's just to let you know, and also to let our good interpreters know that I'm changing languages.

[*Translation*]

What is usually the average timeframe for such a bidding process? That's my first question.

As for the integrated relocation contract, do you think it's fair and equitable to launch an open bidding process less than six months before the contract expires?

Mr. Pablo Sobrino: No. We think that we must proceed more quickly and launch that open process—which I just talked about—at least 18 months before the expiry, so that we can have enough time to award the contract. The Treasury Board also has to approve the awarding of a contract. Therefore, we have to begin the process with the Treasury Board at least 18 months before the expiry, so that they can make a decision.

Mr. Mathieu Ravignat: So I assume that the timeframe for this contract will be much longer than it has been in the past.

Mr. Pablo Sobrino: We need time to establish that kind of engagement with industry. We cannot do that with a very tight deadline.

Mr. Mathieu Ravignat: Okay.

Do you know whether the new contract will contain the same clauses, including the two option years?

Mr. Pablo Sobrino: I don't know. That discussion is part of the procurement strategy. The decision has not yet been made.

Mr. Mathieu Ravignat: Okay.

Have you made a decision about potentially extending the contract?

Mr. Pablo Sobrino: Are you talking about the possibility of extending the current contract?

Mr. Mathieu Ravignat: I am talking about the current contract or any future contracts.

Mr. Pablo Sobrino: The current contract will have to be extended by a year to ensure transparent and equitable procurement going forward.

Mr. Mathieu Ravignat: Okay.

Do I have any time left?

[*English*]

The Chair: You have 30 seconds.

[*Translation*]

Mr. Mathieu Ravignat: Okay.

I would like to talk about the relationship among the departments. I am talking about the Treasury Board, National Defence and the RCMP.

How do you ensure that those three departments will follow the process, that all the information they disseminate will be transparent and that they will be held accountable?

Mr. Pablo Sobrino: I have to work with my counterparts from all three departments. The reason we work separately with the three departments is that they all have different workforce adjustment policies.

My counterparts are also assistant deputy ministers. We have to meet in a committee. Technical requirements are their responsibility. We prepare the contract that validates those technical requirements. I need my counterparts to give bidders clear information about the contracts or proposals. I also need them to provide information on usage, as it is very important for bidders to know about the volume.

Mr. Mathieu Ravignat: Okay.

Mr. Chair, I have a point of order.

[English]

The Chair: You're way over time now. You're pushing my patience, Mr. Ravignat.

[Translation]

Mr. Mathieu Ravignat: No. I don't want to ask any questions. I want to raise a point of order, if I may.

[English]

The Chair: A point of order? Oh well, a point of order is always welcome.

Voices: Oh, oh!

The Chair: I love points of order.

[Translation]

Mr. Mathieu Ravignat: It could also be a point of privilege. I feel limited in my ability to ask questions, as we have not been able to summon the minister who is in charge of this program.

With all due respect, I must say that this is an ethical issue, since our topic of discussion has to do with a much higher level of authority. If I put questions to the officials before us, they will clearly just tell me that they cannot answer. I understand them, as I would do the same if I were them. It's too bad we cannot put our questions to the minister in charge of this issue.

Thank you.

• (1140)

[English]

The Chair: I think I've heard enough, Monsieur Ravignat. I understand your point and it's not a point of order. It's a grievance, perhaps, but it's not a point of order.

Next we are going to Mr. Andrew Saxton.

Mr. Andrew Saxton: Thank you, Chair, and thanks to our witnesses for being here today.

Here's my first question. The Auditor General, in her report, found that the steps with regard to the tendering process were not sufficient to offset an unfair advantage to the incumbent bidder, and that the process needed to ensure that all bidders in the tendering process had access to correct and complete information.

Can you please tell us what your department has done to ensure that the 2009 contract addressed these issues and concerns raised by the Auditor General?

Mr. Normand Masse: In fact, one of the points that was mentioned was the accuracy of the information provided in the 2004 process.

In 2009, as we said, we put in place a certification process at the assistant deputy minister level in all the departments. But in fact in 2009 this was not something that we included in the process, so the property management that was in question in the AG report was not part of the evaluation process for 2009. With the revised data, it was felt that it was insignificant in terms of impact on the evaluation, so it was not included in the 2009 process.

Mr. Andrew Saxton: In 2007, the government responded to the public accounts committee's report on chapter 5 entitled "Relocating Members of the Canadian Forces, RCMP, and Federal Public Service" from the November 2006 report of the Auditor General. In the public accounts committee's report, it recommended that the departments involved in the contract develop a detailed action plan for the implementation of each of the recommendations that applied to them.

Did Public Works and Government Services Canada do this, and is it available?

Mr. Vincent Robitaille: Public Works did do this, and actually it was the subject also of a letter in June 2009, if I'm correct, written by the deputy minister at the time, Mr. François Guimont, to the chair of the Standing Committee on Public Accounts.

Mr. Andrew Saxton: Thank you very much.

Did you find that monitoring the performance of the IRP in the development of the next RFP, as recommended by the public accounts committee, dramatically changed the contract?

Mr. Vincent Robitaille: There have been a number of changes. I think the largest one has been to move to a statement of requirements as opposed to a statement of work, which is basically defining the outcome the government is seeking as opposed to defining exactly how the work is done.

That has two benefits. The first one is that we allow the industry to find different ways of providing the work. It allows an organization that has a different way of performing the services to still meet our requirement without changing their business practices, and typically, in a request for proposal process, this would result in greater value for taxpayers.

Mr. Andrew Saxton: Thank you.

In 2008, Public Works posted an RFP to seek input from relocation service providers on best practices for the IRP.

First of all, was this a recommendation issued by the Auditor General or the public accounts committee, and can you tell us what significant industry feedback was received?

Mr. Vincent Robitaille: It actually was not a recommendation from either the AG or the standing committee. However, it's a result of best practices that we do have with regard to industry engagement.

We have received significant feedback that has been analyzed by both our fairness monitor, who was attending the meetings, and, towards the tail end, the independent expert advisors as well.

There was a recommendation around, for example, the number of moves that any prospective bidder must have as experience, and there was a recommendation actually to lower it, which the government accepted and implemented in the RFP.

• (1145)

Mr. Andrew Saxton: Can you say, therefore, that all relocation service providers were aware then of the possible selection criteria for the new relocation program contract?

Mr. Vincent Robitaille: Yes. The information was published a year in advance, or around that.

Mr. Andrew Saxton: Thank you very much.

Thank you, Chair.

The Chair: Thank you, Mr. Saxton.

We'll move on to John McCallum for the Liberals.

Hon. John McCallum: Thank you, and welcome to you all.

Have you established a timeline for the next contract?

Mr. Pablo Sobrino: Not per se, because we have several engagements to carry through. As the engagement informs us, we either may have to go back to industry or we may be able to move to the next step. My estimate would be about 18 months to get us to a bid closing, and then we'll be able to move to the process for contract award after that.

Hon. John McCallum: There is another issue. I wonder whether you're necessarily going to have a single winner or whether you might split the work among a number of businesses that would handle a certain percentage of the work at specific price points. Is that an option?

Mr. Pablo Sobrino: We could adopt a variety of procurement strategies, but the idea is to consult with industry and deal with our client departments to adopt the appropriate procurement strategy. An option may be to separate each of the Canadian Forces and the RCMP and Treasury Board. Other options that would be considered in the industry might be to do it by geography, but we have no preconceived notion of how to proceed with this.

Our knowledge of the relocation service business has changed quite a bit in the last year. There are a lot more web-based services and things like that, so that may change the nature of the service as well. But I'm just speculating at this point, because we need to do the procurement strategy in consultation with industry.

Hon. John McCallum: Okay. I think one of the general concerns is that these processes seem to be preordained in favour of a certain party. My understanding is that in 2009, in an initial letter of interest, the winning bidder would be given six months lead time to prepare before the start of the contract, and this rule was subsequently changed. That might have made it much more difficult for potential new service providers. Can you tell me why that rule was changed in 2009?

Mr. Pablo Sobrino: The timeline was compressed for that procurement. The contract had to be awarded to take effect on December 1, 2009, because the decision had been taken not to extend the option years. Because of the timelines, we ended up with essentially three months for the winning bidder to be able to stand up their contract. We extended it a further three months into the after-

contract award, where the successful bidder would not have to meet the service standards, and we would recognize that it was an acceptable wind-up period. Nevertheless, the total time was six months: three months in advance of contract work and three months after. We weren't expecting performance for the first three months of the contract award.

Hon. John McCallum: The current contract, I believe, expires in November 2014.

Mr. Pablo Sobrino: That's correct.

Hon. John McCallum: So by what date do you think you will award that contract?

Mr. Pablo Sobrino: The current contract expires November 2014 with two option years, so it can be extended to November 2016. We expect we will have to exercise one option year to allow for the process of consultation, etc., for the award.

Hon. John McCallum: Do you think there's a risk that the contract may not approve an extension?

Mr. Pablo Sobrino: The contractor?

Hon. John McCallum: Do you believe there's a risk that the current contract may not be extended?

Mr. Pablo Sobrino: There could be a risk. We will advise that we should have an extension so we can do a proper, complete procurement process for the next contract.

• (1150)

Hon. John McCallum: Thank you.

The Chair: Thank you, John.

Next, for the Conservatives, Mr. Dan Albas.

Mr. Dan Albas: Thank you, Mr. Chair.

I want to thank our witnesses for being here today. I certainly look forward to asking a few questions. I'm a new member of the committee, by the way, so I'm still trying to ascertain the proper structure for many of these contracts. I'm certainly glad you're here to explain a lot of it.

I'm familiar with the Office of the Procurement Ombudsman. Does that office have anything to do with the procurement of contracts like this?

Mr. Pablo Sobrino: The procurement ombudsman operates for low-dollar-value procurements. I forget what the threshold limit is.

Mr. Normand Masse: I believe it's below \$100,000, or procurements that are not subject to the CITT. That is the case here. The Office of the Procurement Ombudsman could look at systemic issues or procurement issues in general.

Mr. Dan Albas: Okay. That's good to know.

I'm going to go back to some of the things that both Mr. Saxton and Mr. Cannan covered, and more specifically back to the AG report of 2007. Apparently the AG recommended that, "Public Works and Government Services Canada should ensure that all ceiling rates are in accordance with the terms and conditions of the contract."

Your department vowed to conduct a detailed investigation to ensure they're in accordance, and that any overpayment would be reimbursed to the crown in accordance with the audit provisions of the contract.

Can you explain how you went about doing this, and what the results of that particular investigation were?

Mr. Vincent Robitaille: We've worked with the client departments—that is, the Department of National Defence, the Treasury Board Secretariat, and the Royal Canadian Mounted Police—to identify any of those payments for property management services that may have been charged to the employees or the relocating members. We identified 225 of them, and they've been fully reimbursed by the contractor. We made sure none of the members were charged for this or that they were all reimbursed.

Mr. Dan Albas: Just to correct the record, Mr. Chair, I've been informed by my colleagues it was 2006, not 2007.

Moving forward, the fairness monitor identified a potential fairness issue concerning the reduction in the transition period that was set out in the RFI, from six months to three months. In response, a ramp-up period of three months was introduced, which, when you add the three-month transition period, resulted in the effective restoration of a six-month window for a contractor to attain the capability required to meet the total estimated workload.

Can you also explain why the contracts would include a change in provision of an adequate transition period?

Mr. Pablo Sobrino: The change in provision of an adequate transition period was because we originally envisaged having six months to transition from the old provider to the new provider, but because of the procurement process and the deadline of the final contract, we weren't able to achieve that, which is why we made that modification. It could add up, effectively, to six months—three months' transition and then three months' start-up.

The notion is not to penalize the bidder in the transition phase.

Mr. Dan Albas: Great.

Thank you, Mr. Chair. Those are all my questions.

The Chair: Thank you, Mr. Albas.

That concludes our first round.

I have one question of clarification that I think might benefit committee members, and even anybody who might be tuned in and watching. The figures we bandy about, the number of people relocated and the total dollar figure of the contract, don't move a single box of clothes or piece of furniture, do they? The services being offered here are consulting services.

Who moves your furniture from A to B, and is it above and beyond the cost of this contract?

Mr. Pablo Sobrino: The furniture and your car, etc., are moved under our household goods moving contracts, which are the moving lines that move our goods. The program administers or provides advice on the policy, and the money flows through the relocation service provider to fund the benefits that moving members are entitled to.

• (1155)

The Chair: But it doesn't pay for the moving.

Mr. Pablo Sobrino: No, it's for the real estate fees, for the lawyers to sell the house, for your first and last months' rent when you're leaving a rental—those kinds of things.

The Chair: How much is it per client, the \$19,500? What does that pay per head? It seems to me it's a whole whack of money.

It's the most controversial procurement in government history, the longest standing dispute in history. Why don't we just do that in-house? By my figures, you could hire 500 personnel at \$100,000 a year each for the same price as you're paying for that contract, and those 500 personnel could advise the people being moved as to what's a good neighbourhood and help them with advice on their moving. Somebody still has to carry the damn furniture around—that's the expensive part of any move.

Mr. Pablo Sobrino: We know.

The Chair: Why don't we do it in-house? From a broad policy point of view, has anybody ever considered forgetting all this agony over this particular procurement contract? Why don't we hire some civil servants to do it cheaply and efficiently and competently, without collusion or corruption, or the allegations associated with this contract?

Mr. Pablo Sobrino: Not to comment on it in particular, we are simply fulfilling a request we receive from our client departments who have chosen to do it this way and have asked us to procure these services. The decision was taken back in the late 1990s to move to an outsource service in this area, and that's fundamentally where we are right now.

The Chair: Thank you for that.

Next, Linda Duncan is sharing with Denis Blanchette.

Ms. Linda Duncan: Thanks, Mr. Chair. That's a good question. It saves me asking it.

I'll not get into the case, but I am going to relay a finding of the court. My question follows after that. The court felt it was imperative that a thorough investigation be carried out on how far up the bureaucratic chain the knowledge of this activity went, that it was particularly important to ensure the integrity of the Auditor General. It also found some of the testimony of Public Works officials to be, in their quotes, "less than truthful".

My question to you is this. This matter is under appeal. Potentially, it could be under appeal again if the government is not satisfied with the ruling of the appellate division. Are you going to move expeditiously on the recommendation of the court, or is that going to be awaiting all of these appeals, which may be completed well after the procurement bidding process occurs for the next round for this particular activity?

Mr. Pablo Sobrino: In terms of our investigation, subsequent to the Auditor General's report in 2006, the department carried out an internal investigation on the observations of the Auditor General. At that point these matters were addressed, and that's about it.

Ms. Linda Duncan: So your answer is no further investigations into the conduct of the department as a result of the determination of the court.

Mr. Pablo Sobrino: Once we have the final decision of the courts, I presume we'll be taking those actions as well.

Ms. Linda Duncan: So no direction from the deputy minister, who I note is actually the person responsible for the policy on fairness monitoring and is not here.

Are you the deputy minister responsible for oversight?

Mr. Pablo Sobrino: I'm the assistant deputy minister of acquisitions.

Ms. Linda Duncan: Have either of those officials directed that you take a closer look at whether or not fairness is occurring?

Mr. Pablo Sobrino: Yes. We have been directed under our procurement reform initiative, which started back in 2009-10, to change how we do procurement. That is what we have been putting in place. It's not only for this particular procurement, but for all procurements, so that we do the proper industry engagement, so that we have openness and transparency, and so that we have the third-party reviews at appropriate places in the procurement, as well as open governance.

Ms. Linda Duncan: Denis.

[*Translation*]

Mr. Denis Blanchette (Louis-Hébert, NDP): I want to thank our guests. It is always nice to have an opportunity to talk to them.

I want to discuss performance measurement mechanisms. Your department manages the contract, but it does not actually use it. So the problem always consists in trying to determine whether the contract is effective.

Correct me if I am wrong, but my understanding is that it has been fairly difficult to accurately assess the services provided by departments. I want to know what tools you mean to use to clearly establish whether taxpayers are getting value for their money in different departments.

• (1200)

Mr. Vincent Robitaille: Thank you.

If I remember correctly, the 2009 contract sets out 67 performance measurements used to evaluate the services provided by the contracting party. Those performance measurements are discussed regularly—on a quarterly basis, I think. The goal is to ensure that the contracting party is meeting the program's objectives.

Similar measures will be included in the next procurement process.

Mr. Denis Blanchette: Okay.

Are those measures qualitative or quantitative?

Mr. Vincent Robitaille: They are both quantitative and qualitative, and there are 67 of them.

Mr. Denis Blanchette: So far, how have you been assessing the services provided?

Mr. Vincent Robitaille: So far, the contracting party has been meeting the contract requirements.

Mr. Denis Blanchette: Do you plan to change those measures significantly for the purposes of the next competition?

Mr. Vincent Robitaille: As for the engagement process, we plan to meet with industry representatives to learn about best practices in performance measurement. That is one of the elements. That could change a lot or a little. It will all depend on our interaction with industry.

We definitely want to make sure that those are the best practices in workforce adjustment or relocation.

Mr. Denis Blanchette: Very well.

Could you tell me a bit more about your relationships with various client departments? I understand that you want to speak to industry representatives. However, first and foremost, you have relationships with the departments on whose behalf you sign contracts.

What I basically want to know is whether any information that would help you better evaluate the contact is ever lost in the relationship between you and your client departments.

Mr. Vincent Robitaille: For instance, in the case of the new contract, we have an interdepartmental committee in charge of identifying the needs. We will use the knowledge acquired through the management of the current contract to establish those performance measurements. So in addition to consulting industry representatives, we will also use the lessons learned from the management of the contract in place since 2009 and any previous contracts.

[*English*]

The Chair: Thank you, Denis. That concludes your time.

For the Conservatives, we have Bernard Trottier.

Mr. Bernard Trottier (Etobicoke—Lakeshore, CPC): Thank you, Mr. Chair.

And thank you for coming in today to talk about this important issue.

There were a number of recommendations in the 2006 Auditor General's report. Some of them have been mentioned, among which were making sure that the ceiling rates were in accordance with the terms and conditions. That was to eliminate the risk of overpayment. The other was that the tendering process contain steps that did not favour incumbent bidders, necessarily. There was another one that was very important, which was that, in general, more sets of eyes needed to look at the financial components of the bids. There are at least three sets of eyes—that is my understanding—as the process has evolved. There's the team or the person running the bid; there's also management oversight, with sufficient detail, where they can actually look at bids intelligently; and then, thirdly, there is a fairness monitor.

Does the minister or do any elected people get their paw prints on bids? Do they get involved in the tendering process? Can you explain why there's a separation between, I'll call it, the political arm versus the ministry itself?

Mr. Pablo Sobrino: The conduct of the procurement is the responsibility of the contract officer. That's what's written in our supply manual and all the procedures we follow. The participation, in terms of the bids, are bid selection teams that are built. In many cases, the teams that do the bid selection of different components keep their results independent of each other so as not to influence that. That's brought together by the contract officer to finalize the bid.

In pretty well every circumstance, whenever the proposed bids are coming up to consideration at my level, they're coded with the letters A, B, and C, so I don't see the names of the bids. That is the way, again, of protecting the integrity of the process. I say that because when there's just a sole bid or a sole-source arrangement, they do see the name. That's the exception.

At no point is the minister's staff involved, nor the deputy minister, as the delegated authority is passed down to us. The only other time the minister may become aware of a bid is during the actual presentation of a Treasury Board submission to the ministers of Treasury Board. That's the one place where that name will come to be, and that's because Treasury Board has to provide the authority for those larger contracts.

• (1205)

Mr. Bernard Trottier: Okay.

Recently Public Works was involved in a very high-profile procurement around the national ship procurement strategy.

Mr. Pablo Sobrino: Yes.

Mr. Bernard Trottier: With some of those practices that you mentioned, with the separation of the review and the information, making sure that it was not, I guess, tainted by one team's assessment of the situation—are those some of the practices in the NSPS, the national ship procurement strategy, that are being used in the relocation services contract?

Mr. Pablo Sobrino: The attributes of the NSPS contract, which are what I just described, are used in most complex procurements. The ones that are exceptions tend to be sole-sourced ones. We also do 50,000 procurements a year, so that's the other element. The volume is such that we manage that procurement by procurement at an appropriate delegated level.

The NSPS gave us three elements that were important. One was governance, so that decision-making is made at the right levels and the oversight is done at the right levels. On large-scale, complex procurements, you will have a deputy minister's oversight. On complex procurements, such as a lot of military hardware and the relocation program, for example, we will have assistant deputy minister oversight. The less complex will be at the director general level. Those systems are put in place.

The third-party element, which is probably the most interesting one, is when you bring third parties in to assess. As you referred to the national shipbuilding procurement strategy, the third parties were used for essentially 60% to 70% of the effort. What they did is provide conclusions that the evaluators could then look at, examine, and assess. We use third parties, the fairness monitor being an example. But the assessment of the evaluation criteria will often

bring in an expert firm that knows how to do evaluations to ensure there's no unintended bias in them.

We would also use facilitators to facilitate our industry days to ensure that everybody gets an equal voice. Those kinds of things are other elements that we had from the NSPS.

Mr. Bernard Trottier: Thank you very much.

I think we've had some good questions. We did endeavour to have you here for an hour. I think it's been about an hour, so maybe I could just end there, Mr. Chair.

The Chair: Your time has run out anyway, Bernard.

We did use some time in debating back and forth, so I don't think our witnesses have been with us for a full hour at this point. There are other speakers interested in questioning, for both the Conservatives and the opposition. I'm inclined to continue as long as there are still people wishing—

Mr. Mike Wallace (Burlington, CPC): On a point of order, Mr. Chair, you had a motion that got defeated to extend the half hour. It's past the allotted time on the order sheet. The orders of the day say from 11 to 12. These folks have other jobs to do. It is an actual point of order because it is orders of the day. We should be moving to the second portion of the meeting from 12 to 1 p.m. on committee business.

The Chair: That's a fellow chair of another committee. I do have respect for Mr. Wallace's point, and he does have a legitimate point of order. We gave one hour, approximately, for these witnesses, and there is no willingness on the part of the committee to keep them any further, even though there is obviously interest to continue questioning.

Having said that, we should remind ourselves as a committee, though, that as the oversight committee for Public Works and government operations, and government procurement generally, our primary concern should be fairness, good competition, and value for the taxpayer dollar invested. All of the questioning was along those lines, in the interest of fairness. The interest of fairness is one thing that we should still be concerned with.

In the current configuration for the next contract, which is all we're talking about here, will the party that both the Auditor General and the Supreme Court of Ontario has ruled has been agreed...will that party be allowed to compete and bid on this next contract, or will they be precluded because of the appeal that's under way?

Can you answer that one question?

• (1210)

Mr. Dan Albas: On a point of order, Mr. Chair, my colleague Mr. Wallace brought up a point of order, and the chair said he would progress to the orders of the day for committee business. I'm finding it at odds.

The Chair: We're actually saying goodbye to our witnesses. That's what we're doing.

Mr. Dan Albas: Okay. I thought you were asking a question. Is it just a rhetorical question?

The Chair: It was a question to the witnesses that I think we'd all be interested in hearing an answer to.

Will the aggrieved party be allowed to compete and bid in the next competition?

Mr. Dan Albas: I had a point of order, though, and I'd like you to rule on that, please.

The Chair: State your point of order clearly.

Mr. Dan Albas: We're past the allotted time, as was explained, and you agreed that it is a legitimate point of order and then you progressed by going back to questioning.

The Chair: I'm saying goodbye to our witnesses, actually, and concluding our examination of the relocation contract. This is my way of summarizing.

Mr. Dan Albas: Mr. Chair, your job is process, not to necessarily bring up opinions or to summarize.

The Chair: I introduce the subject and then I close it off as well. When you're the chair, you can do things differently.

Mr. Dan Albas: I'd like you to at least address my point of order.

The Chair: It is addressed, and I agree. Essentially we are finished with these witnesses, but I'd be very interested to learn the answer to that one specific question: in the opinion—

Mr. Dan Albas: You can use the order paper. Again, Mr. Chair—

The Chair: Why are you so afraid of the answer to that question?

Mr. Dan Albas: No, I'm actually—

The Chair: What do your speaking points say?

Mr. Dan Albas: What I like to look at, Mr. Chair, is a clean process, moving forward and being fair.

The Chair: Yes, fairness, and open competitions....

Mr. Dan Albas: To be fair, Mr. Chair, we had a bogus point of order, a grievance that was raised today after testimony time that could have been used for something else.

Again, I'm just going on the record to point out that I'm for a fair process. You made a ruling that we would move on to the business of the day. I would like you to actually follow through with that.

The Chair: Are you on the same point of order?

Ms. Linda Duncan: Yes, Mr. Chair. I think a ready way to....

I'm speaking to the point of order.

The Chair: I know, but Mathieu Ravnat was on the list to speak to the point of order.

Ms. Linda Duncan: Oh, I'm sorry.

Go ahead, Mathieu.

Mr. Mathieu Ravnat: It's just to add that I find it peculiar that in the past the culture of this committee has been that there is some latitude with regard to extending rounds of questioning on both sides, on subjects that are of interest to both sides. Here, there seems to be a complete lack of flexibility with regard to taking a little bit of latitude and putting a final question and giving a final wrap-up. It's

very peculiar. It's not among the habits of this committee to act this way.

I find it peculiar; that's all.

The Chair: Are you speaking on the same point of order, Linda?

Ms. Linda Duncan: Yes, I am speaking to the point of order. It's not a new point of order.

My comment would be that I see nothing extraordinary in the closing comments and, as is the custom for this committee and all committees, in the witnesses' being asked to provide a response in writing.

The Chair: Okay.

As a point of order, we are concluded with this one hour of examination of the relocation contract.

Perhaps the witnesses have heard Ms. Duncan's point and could provide the answer to that question in writing after the fact.

We will suspend the meeting briefly while we say goodbye to the witnesses. We will then clear the room, because we will be going in camera to discuss future business.

John, were you trying to get my attention?

Hon. John McCallum: If it's in order, Mr. Chair, I'd like to propose a motion.

The Chair: It is in order at any time, if you want to move a motion.

Hon. John McCallum: The motion is:

That the Committee conduct a study into the Government's media monitoring policies for both internal and contract media monitoring, and that the Committee request officials from the Department of Public Works and Government Services in their capacity as a service provider, the Treasury Board Secretariat in their capacity as a policy setting body, and the Privy Council Office; and that the committee report its findings to the House.

The Chair: I see I have a notice that you served of that motion on May 14; therefore, it's in order.

Is there any further debate on the motion of John McCallum?

Who has the floor here?

Dan Albas had his hand up.

Mr. Dan Albas: I'd like to move that we go in camera.

• (1215)

The Chair: That is non-debatable. The motion is that the committee go in camera.

(Motion agreed to)

The Chair: We're going in camera, so we'll clear the room of anybody who shouldn't be in the room.

[Proceedings continue in camera]

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