ABSTRACT
This is a story about how a small number of dishonest public servants took advantage of their ability to buy toner cartridges for their agencies in order to obtain a personal benefit.

An investigation was conducted by the Victorian Ombudsman following information provided by the Corruption and Crime Commission of Western Australia in April 2010. The Ombudsman’s report was tabled in June 2011. The investigation identified that a number of Victorian Government agencies were placing large orders for toner cartridges from a particular organisation (“The Company”) and that officers were receiving gifts in return.

The Ombudsman investigated Arts Victoria, a number of Victorian Government schools, and a prison. The investigation identified several purchasing officers who had used public money inappropriately to purchase toner cartridges from The Company and who had benefited by accepting gifts.

In one case, in 2009 an Arts Victoria employee received over $8000 in pre-paid VISA cards and Coles/Myer vouchers as a result of significant and excessive numbers of toner cartridge purchases. This corrupt conduct cost Arts Victoria over $80,000.

This presentation will address the findings from the investigation and the lessons learnt from the investigation for the wider public sector.
BACKGROUND

In April 2010 the Acting Commissioner of the Corruption and Crime Commission of Western Australia (The Commission) wrote to the Victorian Ombudsman informing him that the Commission was investigating allegations that public officers in Western Australia were purchasing printer toner cartridges from a toner cartridge supplier (The Company) that was not an authorised Government supplier.

The Acting Commissioner advised the Ombudsman that The Company was a Victoria-based organisation with a number of subsidiaries trading throughout Australia selling toner cartridges "at 3-4 times the price of genuine cartridges".

In light of this advice the Ombudsman decided to conduct an investigation on his own motion to determine whether this was also taking place in the Victorian public sector.

In its initial stages, the Ombudsman's investigation identified a Freedom of Information (FOI) request made by Mr David Davis MP on 2 November 2009. In this request, Mr Davis asked 17 government bodies, agencies, and statutory authorities for records of payments made to The Company from 1 July 2005 to 2 November 2009. The Department of Justice coordinated a response to Mr Davis on behalf of the 17 public bodies.

The Department prepared a list of the government bodies that had purchased goods from The Company. Nine such bodies were named; all together, they had paid $260,937 to The Company. The investigation identified one public officer who was responsible for approximately $148,000 of this expenditure.

The Company’s sales strategy:

The Company’s sales strategy was to contact public officers three times during the ordering process:

- i. A 'cold' telephone call was made to the public officer to pitch and sell the toner cartridges. This call was not recorded by The Company.
  
- ii. The Company sent the public officer a confirmation order, stating the following:
  
  • model and quantity of cartridges ordered
  • length and details of the agreement entered into
  • details of product vouchers purchased
  • total amount of the order, payable in 30 days
  • any gifts to be provided

  The public officer was asked to sign the confirmation order and fax it back to The Company.

- iii. The Company called the public officer to confirm the order. The public officer was advised that the call was being recorded. The Company keeps this recording.

The investigation identified that two invoices were often provided to the public officer, one with details of the toner cartridges purchased and the other with details of the gift accepted.
The investigation also identified a number of instances where public officers purchased product vouchers from The Company even when their organisation’s existing supply of toner cartridges was excessive. A product voucher is the pre-payment of toner cartridges to be delivered in the future at the request of the public body. A product voucher must be paid in full within 30 days.

Issues examined in the investigation

The investigation focused on the purchase of toner cartridges from The Company by:

- Arts Victoria
- three Victorian schools
- a prison.

The investigation identified the following issues of concern in these bodies:

- purchases outside the State Purchase Contract
- improper expenditure of public money
- acceptance of gifts
- destruction of public records.

Purchases made outside the State Purchase Contract

On 1 January 2006 the Victorian Government Purchasing Board (VGPB) established a State Purchase Contract for public bodies to use when purchasing stationery and office products. The State Purchase Contract includes the purchase of toner cartridges.

From 2006-10, under the State Purchase Contract, OfficeMax was the approved supplier for stationery and office products to the Victorian public sector.

However, all of the toner cartridge purchases discussed in the investigation were made from The Company instead of OfficeMax, outside these purchasing guidelines.

Improper expenditure of public money

The investigation identified significant differences between the prices of toner cartridges offered by The Company and those offered by OfficeMax.

The investigation identified a number of purchasing officers who had used public money inappropriately by:

- Purchasing toner cartridges at inflated prices. In one instance the already inflated unit price of a toner cartridge quoted by The Company increased by a further $202 per unit: from $167 to $369 over a five month period. Throughout this period, OfficeMax toner cartridges cost $99.

- Purchasing toner cartridges that were not required. For example, one officer purchased enough black toner cartridges to supply the government department for 40 years. Toner cartridges expire after 24 months.
• Splitting invoices. For example, a purchasing officer requested that an order from The Company be split into four invoices to ensure the total amount of each invoice would not trigger further enquiry.

Several purchasing officers said they had not noticed a difference in price nor compared the price when purchasing toner cartridges from The Company. They also said they failed to check other suppliers to ensure that the product purchased was the best value for money. Some of these public officers were required to purchase from OfficeMax, and all were required to purchase on a ‘best value for money’ basis.

Acceptance of gifts

The State Services Authority’s Code of Conduct for Victorian Public Sector Employees outlines the obligations for public officers in relation to accepting gifts. This Code of Conduct states that public sector employees should not seek or accept gifts or benefits that could be reasonably perceived to influence them, and that they are to comply with their agency’s policies on gifts or benefits.

The investigation examined a large number of invoices that The Company issued to public bodies. This analysis identified a number of instances where public officers accepted gifts from The Company for their personal benefit. Once a public officer accepts a gift and fails to declare it, there is potential for that public officer to engage in a pattern of corrupt behaviour, placing them in a position that makes it difficult to discontinue purchasing or to decline gifts from The Company in the future.

Destruction of public records

Several public officers breached their obligations under the Public Record Office Disposal schedule by destroying public records of their purchases from The Company.

The destruction of these records by a number of public officers may have been deliberate attempts to disguise and conceal gifts received from The Company.

CASE STUDY ONE: ARTS VICTORIA

The role of Arts Victoria is to promote the arts and the development and funding of Victoria’s artists and creative industries.

Inappropriate expenditure of money

The investigation identified that Arts Victoria spent $148,000 in 2005-2009 on toner cartridges from The Company.

In June 2003, Arts Victoria purchased a Ricoh CL7000, black/white and colour printer. The purchase of this printer included a service contract with Ricoh Australia (Ricoh).

We were advised that OfficeMax, the approved supplier under the State Purchase Contract, did not supply toner cartridges for a Ricoh CL7000 printer.
OfficeMax advises purchasing officers to buy toner cartridges for this printer from Ricoh.

The investigation established that the Ricoh service contract included:

- regular servicing
- black toner cartridges free of charge
- colour toner cartridges at a set price of $342 each. In January 2004, Ricoh reduced the price of colour cartridges for this printer to $263 each and this price remained until May 2010.

During a review of invoices obtained from The Company, the investigation identified a Project Officer as one of the people purchasing toner cartridges on behalf of Arts Victoria.

On 17 July 2003, the Project Officer was the first officer from Arts Victoria to order toner cartridges from Ricoh under the service contract. Six other Arts Victoria staff members purchased toner cartridges under the Ricoh service contract in 2003-10.

The Project Officer's purchases from Ricoh under the service contract were as follows:

- Between July 2003 and March 2009, she obtained 16 black toner cartridges under the service contract at no charge.
- Between September 2004 and March 2009, she ordered 43 colour toner cartridges from Ricoh under the service contract for $263 each.

The total cost to Arts Victoria was:

- Black toner cartridges $0
- Colour toner cartridges $11,309

At interview she stated:

... the purchasing I did I honestly believed it was saving Arts Victoria money... 

... [the] prices that Ricoh gave us ... were similar if not slightly higher ... at the time ... my belief was at the time that this was comparable to the Ricoh prices.

The investigators identified invoices for a number of transactions where the Project Officer had purchased black toner cartridges from The Company for $799 and $899 per unit. This was despite black toner cartridges being available free of charge under the Ricoh service contract, an offer which she had accepted on numerous prior occasions.

Between February 2006 and August 2009, the Project Officer purchased 55 black toner cartridges and 74 colour toner cartridges from The Company.

Based on the various prices paid by the Project Officer, the total amount spent by Arts Victoria when purchasing toner cartridges from The Company was as follows:

- Colour toner cartridges $57,814.90
- Black toner cartridges $42,380.80
- Total $100,195.70

By contrast, if the same amount of toner cartridges had been purchased under the Ricoh service contract, the cost to Arts Victoria would have been as follows:
• Colour toner cartridges $19,462
• Black toner cartridges $0
• Total $19,462

As a result, between February 2006 and August 2009 the Project Officer spent an additional $80,733 by choosing to purchase cartridges from The Company rather than Ricoh.

Acceptance of gifts

In a recorded call with The Company on 22 June 2009, the Project Officer confirmed an order for toner cartridges, totalling $10,788 and accepted a $1,000 Coles Myer voucher.

When confronted with recordings of telephone conversations she had with The Company, the Project Officer admitted that she had received gifts from The Company in 2009-2010 of $8,300 in gift vouchers and prepaid Visa Cards, and that she had hidden this from Arts Victoria.

She said:

I saw the gifts as an ability to get me through what was a very tough period of time.

On 9 October 2009, the Project Officer ceased purchasing with The Company and began to purchase toner cartridges with another supplier. This supplier also offered gifts and incentives to buyers.

The investigation established that in addition to the gifts received through her purchases with The Company, the Project Officer estimated that she had received a further $3,000 worth of gifts from the other supplier which were used for her private benefit.

Product vouchers

In a recorded call with The Company in June 2009, the Project Officer confirmed a forward order of product vouchers for 12 black toner cartridges, totalling $10,788.

On 8 July 2009, she forward ordered another product voucher for 15 colour toner cartridges, totalling $11,985. On 4 August 2009, she forward ordered another 18 colour toner cartridges for the same printer, totalling $14,382. The Project Officer also ordered four colour toner cartridges in 2009 from the Ricoh service contract.

At interview the Project Officer agreed that Arts Victoria did not need the 12 black toner cartridges that she ordered in product vouchers in June 2009.

To demonstrate the extent of the Project Officer’s over-ordering, in 2009, the Ricoh CL7000 printer at Arts Victoria printed 110,615 sheets of colour pages and 11,966 sheets of black and white pages.

A black toner cartridge for this type of printer produces 20,000 printed pages and a colour toner cartridge produces 10,000 printed pages.

On the basis of the number of pages printed by Arts Victoria, the total number of colour cartridges required in 2009 by Arts Victoria was 11 colour toner...
cartridges. Arts Victoria only used approximately 60 per cent of one black toner cartridge for the entire year in 2009.

The Project Officer purchased 24 black cartridges and 42 colour cartridges from The Company in 2009. On Ricoh’s figures, this is a sufficient supply of black toner cartridges for this printer for the next 40 years and enough colour toner cartridges for the next four years.

Toner cartridges have a shelf life of 24 months before expiring and becoming unusable.

**Lack of management of the Project Officer**

The Project Officer was not adequately managed at Arts Victoria. Her managers were not aware of the amount of money spent by the Project Officer on toner cartridges.

At the time of Mr David Davis’ FOI request in 2009, the Senior Finance Manager sent the Project Officer an email which requested that she confirm whether she had received any gifts from The Company. The Senior Finance Manager stated that the Project Officer responded to her in person, saying that she had not received any gifts.

When interviewed the Project Officer stated that the way she was managed at Arts Victoria ‘had a massive impact’ on her dealings with The Company. The Project Officer began employment with Arts Victoria in 1998 and on her own evidence, she stated:

> I was fairly self managed ... I had been left fairly much left [sic] to manage those jobs on my own and at my discretion.

The Project Officer had 109 days annual leave owed to her in 2010 as she rarely took annual leave.

The Project Officer resigned during my investigation.

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**CASE STUDY TWO: THE DEPARTMENT OF EDUCATION**

The conduct of the Project Officer at Arts Victoria was not unique.

Analysis of the information that The Company provided to the investigation showed that 66 schools purchased toner cartridges from The Company in 2009-10.

Victorian government schools are not required to comply with the State Purchase Contract, however it is open to them to purchase from the government supplier (OfficeMax).

The investigation into officers of the Department of Education identified similar kickbacks by way of gifts from The Company with the investigation focusing on three schools.
CASE STUDY THREE: SECONDARY SCHOOL D

The public officer responsible for purchasing toner cartridges at Secondary School D was the Business Manager. She is still employed by the school and reports to the Principal.

During 2009 and 2010, the Business Manager purchased 63 colour toner cartridges from The Company. Between January and June 2009, these toner cartridges increased in price by $202 per unit: from $167 to $369. Throughout this period, OfficeMax toner cartridges cost $99.

Invoices showed that the Business Manager purchased five product vouchers in 2009 and 2010 to supply toner cartridges for one printer at the school. Each product voucher that the Business Manager purchased was for eight toner cartridges, to be delivered in the future — a total of 40 toner cartridges.

The investigation team attended Secondary School D in December 2010 and identified 18 toner cartridges from The Company in storage which had not been used by the school. The Business Manager also had a further eight cartridges in a product voucher which were yet to be delivered. The Business Manager admitted that she did not require these cartridges.

Invoices provided by The Company show that during 2009 and 2010, the Business Manager received the following gifts:

- Coles Myer vouchers totalling $500
- Target vouchers totalling $400
- A 1GB memory stick (approximate value $8)
- 8.1 mega pixel Samsung camera (recommended retail price of $169)

The total value of these gifts is $1,077.

When questioned about how she used these gifts, the Business Manager said that the Samsung camera was at home and that she 'used it ... personally'. She said that she used the gift vouchers to purchase food for her family.

The Ombudsman recommended that the Department of Education and Early Childhood Development audit all procurement activity undertaken by purchasing officers at the three schools and report on the outcome. The Department accepted the recommendation.

The Department of Education also accepted the recommendation that disciplinary action be taken against the officers identified at the three schools.
LESSONS LEARNT FOR THE WIDER PUBLIC SECTOR

While the obvious lesson learnt was to identify and limit the improper expenditure of public money, there were a number of other issues that warranted public reporting. It is important to note that the Company is still operating nationally, with a number of subsidiary companies. However, the actions of the public officers in the Ombudsman’s report have wider consequences and lessons for the public sector. These include:

Acceptance of gifts

In many instances, a lack of management and auditing provided an environment which allowed this conduct to go undetected.

The investigation also found that several of the purchasing officers interviewed understood the difference between their private and public interest, but conducted themselves corruptly in favour of their private interest, at the expense of the public interest when purchasing toner cartridges with The Company.

The Ombudsman is of the view that public officers should declare all gifts of more than $20 in value to their manager in writing and that this be recorded on a gift register.

Arts Victoria had no entries in its gift register. This raises concerns about its fundamental understanding of the acceptance of gifts and hospitality in the public sector.

RECOMMENDATIONS MADE IN THE INVESTIGATION

As a result of this investigation the Ombudsman made a number of recommendations aimed at:

- improving procurement processes across the Victorian Public Sector
- ensuring public bodies bound by the State Purchase Contract comply with the Contract’s requirements
- alerting public officers to their role and obligations during procurement
- improving processes for the acceptance of gifts and hospitality in the Victorian Public Sector.

What has happened since?

Following the Ombudsman’s report, the Attorney General’s Department in South Australia began an investigation into the purchase of toner cartridges from The Company in the South Australian public sector.

On 24 November 2011 the Corruption and Crime Commission of Western Australia tabled its report in Parliament concerning the purchase of printer toner cartridges in the Western Australian public sector. Some of its key findings were as follows:

- A public officer purchased approximately $23,000 worth of toner cartridges from The Company in one year. Had these toner cartridges
been purchased from the approved supplier, the same quantity would have cost $5000, a difference of $18,000.

- The same public officer established that he had received an Xbox 360, a Playstation, a DVD player and a television, worth about $3000.

- Another public officer spent over $80,000 by choosing to purchase with The Company and ordered an excess supply of toner cartridges for four to five years.

- Between 2006 and 2009, local and state public authorities in WA purchased at least $620,000 worth of toner cartridges. The estimated additional cost to Government on toner cartridges was at least $415,000. This figure is conservative, as it assumes that all the purchased cartridges were needed — many were not.

In response to the Ombudsman’s recommendations, the following action has been taken:

- A review was completed by the State Services Authority into the management of Arts Victoria finding that:
  - Arts Victoria needed to strengthen internal controls over financial reporting, auditing and procurement practices and policies.
  - Arts Victoria needed to revise its Gifts and Hospitality Policy to shift the focus from recording gifts on the basis of monetary value alone, to stronger emphasis on perceptions of conflict of interest or personal benefit.

- Disciplinary action was taken against the three officers at the three schools involved in the investigation. Two of the three officers were reprimanded. The third officer was reprimanded and fined 20 penalty units ($2442.80).