

# Learning the Hard Lessons

THE PUBLIC ACCOUNTS COMMITTEE (PAC) HAS UNEARTHED MANY ISSUES CONCERNING PROJECTS AWARDED VIA NEGOTIATED OR CLOSE TENDER. THE LESSON HERE SEEMS TO BE: 'ACT IN HASTE, REPENT AT LEISURE.' ARE WE LEARNING FROM OUR MISTAKES? **MALAYSIAN BUSINESS** SEEKS PAC CHAIRMAN DATUK SHAHRIR ABDUL SAMAD FOR HIS VIEWS.

There are some quarters questioning the rising number of negotiated contracts and alleged lack of transparency in the government tender process. How can we ensure accountability and prevent abuse?

Generally, the problematic projects the PAC has been looking into were design-and-build projects or direct negotiation projects. It was found that supervision in these projects was not adequate, maybe because junior officers or less experienced engineers were involved, and they were easily cowed by the big-name consultants.

For example, in the case of the MRR2 (Middle Ring Road 2 in Kuala Lumpur) and the Malaysia External Trade Development (Matrade) building, the presence of Public Works Department (PWD) supervising engineers did not seem to overcome the problem, which led to construction problems. In both instances, this was due to lack of supervision.

The lesson we seem to get is that there is a danger in design-and-build projects where the contractor, rather than the

government or user, has a bigger say in how the project is carried out. When the contractor, together with the consultant, is more powerful than the end user, then the supervision by the end user is less effective.

When the site for the Matrade building was changed, the PAC pointed out that it should be a new project awarded through open tender, which could have been undertaken within three months. Could you elaborate on this?

The point the Treasury was making was that when the contractors have been pre-qualified, then you must choose the lowest bidder since everybody has similar qualifications. The question here is, who chooses the consultants and are they qualified? When there were delays, the contractor was not pressured to pay damages, but was allowed to defer the payment. By the time they sold off the company, the outstanding damages were not collectable.

This is a weakness in government

negotiation?

There must be some discipline at the departmental level to say that we don't need this building so fast. If we look at Matrade today, it is doing well on its own, regardless whether it has a building or not. Why do government departments always need their own buildings?

In the 1980s, the Government said the Malaysian Industrial Development Authority (Mida) should not have its own

building. I was a Cabinet Minister then and I recall that the decision was made because there was a surplus of office space in the city (Kuala Lumpur). So Mida was asked to rent. So it wasn't such a problem for Mida not to have a building. It's the same with Matrade. It could well function without a building.

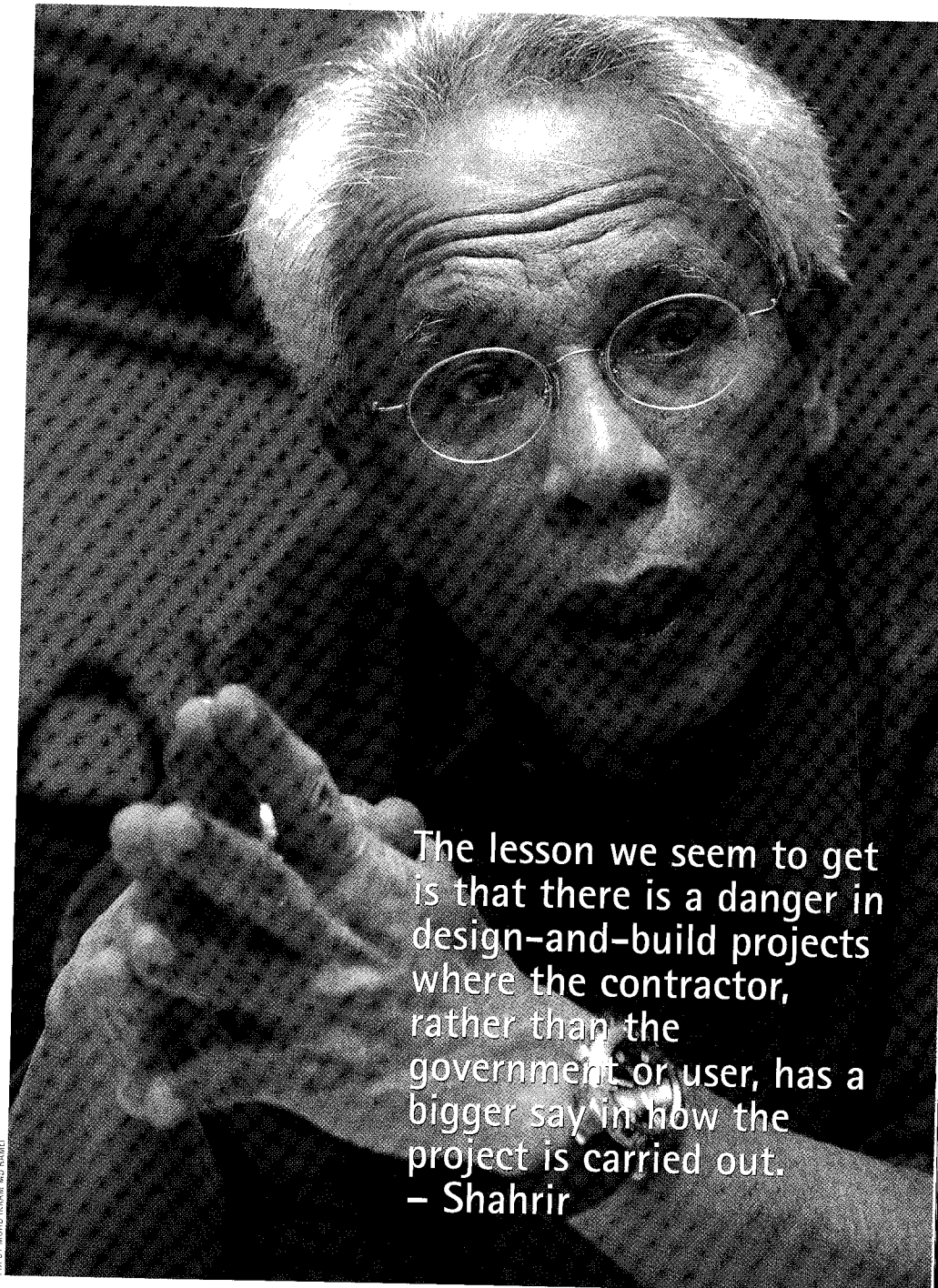
But then it requires discipline and political will for the minister in charge of Matrade to say, 'Hang on, why do we have

procedures in not being firm enough. All parties were equally responsible, namely the Finance Ministry for not collecting the damages, the PWD for not supervising well and not being firm enough, and the user for allowing the Finance Ministry and PWD to play football with the project. It's a wonder how the contractor was pre-qualified because we could not see it having any experience in building high-rise buildings.

What are the criteria for a project to be considered urgent, leading to a negotiated tender?

In the case of the Matrade building, it was considered urgent and therefore should be implemented through direct negotiation. But we cannot see why they wanted it done urgently. In the end, we saw that there was no such necessity because Matrade could still perform even though the building was not ready.

Is there abuse by certain parties to designate projects for direct



The lesson we seem to get is that there is a danger in design-and-build projects where the contractor, rather than the government or user, has a bigger say in how the project is carried out.  
- Shahrir

## cover story

to break the rules to get this done?' Or for the Finance Minister to say, 'Let's not bend the rules, let's have the tender as usual. There's no need to rush.'

**The Health Ministry has appointed contractors for the construction of 33 hospitals through direct negotiation because it was felt the hospitals were urgently needed. What are your comments?**

We should really look for good designers and good consultants who can also be good supervisors. They should be independent of the contractors. It is important to separate the implementation part from planning and design to make sure the planner and designer or consultant have a strong supervisory role over the contractor.

In the same way, hospitals are complex buildings. There has to be a team of consultants involved in designing, planning and supervising. They have to

those which were budgeted for will not be implemented.

Secondly, there were also cost considerations and inadequate planning in the 8MP projects. Look at the rural water supply projects. There was a big gap between what was planned and what was implemented. This was due to issues of costing, land and design. At the end of the 8MP period, there was not enough money to implement these projects.

**It was earlier reported that the Prime Minister's biggest frustration are the delays and wastage in the implementation of government projects. Is the current bidding system adequate to ensure smooth execution of these projects?**

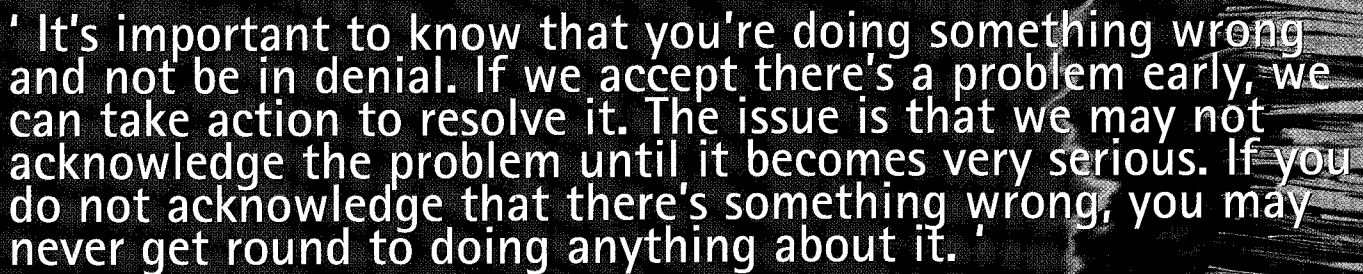
The projects can only be implemented fast if the aspects of design and planning are well taken care of, which can take a couple of additional months or longer. There is a

implementing something. If it's well planned, the project will have a better chance of being successfully implemented. While I can understand why ministers or the public want to see things fast, we must get into the mindset that when we do something, we must do it well. To do that, all components of the process must be adhered to. We must plan well, design well, implement well and we must monitor well.

**Whose role is it to monitor the implementation of these projects?**  
The ICU does the monitoring.

**The Government agreed to allow ministries/agencies to implement projects worth up to RM5 million on their own to speed up the process. Would this be open to abuse?**

Generally, if a project costs RM5 million or less, it is quite small and would probably not require land acquisition. This would



**'It's important to know that you're doing something wrong and not be in denial. If we accept there's a problem early, we can take action to resolve it. The issue is that we may not acknowledge the problem until it becomes very serious. If you do not acknowledge that there's something wrong, you may never get round to doing anything about it.'**

work closely with the Health Ministry. Since the project encompasses so many disciplines, it is important to make sure there are strong designers who are also strong in supervising. I hope the parties concerned will learn from the problems we faced with the Matrade building and the MRR2. Don't say we never told you so.

**More than 2,000 projects under the Eighth Malaysia Plan (8MP) are being carried forward to the Ninth Malaysia Plan. Is this a sign of inefficiency and poor management?**

Generally, what has happened is a lot of non-budgeted projects were also implemented during the 8MP. If you use the same amount of developmental funds to implement projects that were not in the budget in the first place, then naturally

tendency to be impatient, hence the temptation to try to get it done through design-and-build.

When it's design-and-build, you can actually see the money being spent without the project moving forward. So there seems to be progress because money has been spent on design and planning. In the reporting system too, there seems to be progress but it's an illusion because it's not physical but paper progress. This is the temptation for some government departments that wish to see a project take off.

The other way of doing it is to appoint a consultant to design and plan. So there's a division between implementation, and planning and coordination. But people can be quite impatient. We should realise there's no shortcut to constructing or

make implementation easier without any problems of land or design. But it would also depend on the ministries themselves, whether they have the competency to evaluate tenders.

It would reduce the workload of the PWD so they can concentrate on bigger projects. It is a good step. But of course, ministries have to remember that these projects have to be well supervised. Even though it is only RM5 million, if you have 1,000 of them, then it becomes a lot of money. There should be caution. Ministries should only say they will do it if they are sure they have the capacity.

**What role can the PAC play in promoting greater transparency and accountability?**

Generally, the PAC require two parts to

enable it to play its role effectively. One is a strong and independent audit department, namely the National Audit Department, which audits and checks the financials of the Government. At the same time, it is quite capable of auditing projects, making performance and management audits. This is a new area the PAC has ventured into.

Traditionally, we only look at the audited accounts of government departments and agencies and ministries. Since 2004, since the beginning of the current Parliament, under the present Prime Minister, the role of the PAC has expanded to include not just looking at audited accounts but also projects or issues of public interest. The PAC has widened its scope to look at problematic projects even though the accounts have not been finalised.

The second part that makes the PAC effective is the media. The media gives prominence to what is said and done by the PAC. This allows the public to be kept informed of such matters. Either the media raises the matter first and the PAC follows up, or the PAC investigates the subject and the media gives it publicity. You actually see a very unique cooperation, of working together, of an independent government audit department, Parliament and the media. So I wonder why they can't do it in other instances.

**It has been noted that some civil servants have shown indifference towards the Auditor-General's recent report regarding tender abuse. Your comments?**

I don't think there's indifference. At the very least, most of the accounts have managed to be closed and audited. The AG's report was able to be tabled at the same time as the Budget. This is an improvement as the auditing of last year's accounts was done before next year's budget rather than later. This is because the accounts of the agencies and ministries were up to date. There's cooperation from the government departments towards the auditing function itself. Compare this with the past when there were delays even getting the accounts finalised, what more auditing them.

There were fewer remarks and qualifications on the accounts. Still, there

were other problems which we rectified together with the Auditor-General to make sure that these things are not repeated. With Parliament, the PAC and the AG continuing to work together, the rôle of the PAC and the AG can be enhanced. As far as I can see, the government servants are mindful of the comments and observations of the AG.

**Is this a reaction to the Prime Minister's call for more transparency?**

Certainly, I believe the PM's support for the work of the PAC has been helpful and that's important, for the PM is leader of the House and the Cabinet. He has publicly supported the PAC in performing its role. It is an expression of how he sees Parliament playing its role because it is a very important institution which is open, transparent and accountable. Allowing that institution to play its rightful role means you're fully supportive of openness, transparency and accountability. I know of no other institution which is as transparent and accountable.

**In recent years, there seems to be greater awareness of the need for transparency and accountability. Why is this so?**

Looking back, you can see it is an issue of governance. After the financial crisis, the Government started emphasising on corporate governance. The corporate and public sectors were asked to improve themselves by encouraging greater corporate governance. At the same time, with the change of leadership in the 2004 general election, there was promise of better accountability and greater transparency. The concept was for all parties to work together, whether civil servant, politician or the private sector.

Talking about working together, I can't work with you if you don't tell me the situation. If you keep all the facts to yourself, if you're not open, how can I work with you? That's what accountability, transparency and openness means.

To shift from the concept of working for someone to working together with someone is a dramatic shift. The moment the idea of working together was expressed, it made it all right for NGOs, citizen groups

and ratepayers to even take on City Hall, which was unheard of in the past. For the media, working together has meant taking steps to expose wrongdoings and to focus on issues of public interest.

In my assessment, this concept of working together really makes people understand how being open, accountable and transparent is for the country's benefit. It makes it easier for people to relate to what accountability really means.

**What action can be taken against those responsible for projects that go wrong?**

First, it's important to know that you're doing something wrong and not be in denial. This problem of denial is a problem even in project monitoring. If we accept there's a problem early, we can take action to resolve it. The issue is that we may not acknowledge the problem until it becomes very serious. Look at the Matrade building and the MRR2, it's the slowness in acknowledging problems that was part of the cause. If you do not acknowledge that there's something wrong, you may never get round to doing anything about it.

**You mentioned previously that certain government departments should have taken action against these contractors. Could you elaborate?**

Just be firmer. It was not a call for harsh punishment, just the normal punishment for non-performance. Even so, it was deemed that the contractor should be spared. I think that's a pity. That means there are businessmen who should not be subjected to paying normal fines. This should not be allowed. There is no reason or excuse for a contractor not to pay the fines.

At the ministry level, I think they all know what went wrong. Everyone wanted to get things done fast, to be seen as dynamic, but in the end things were not done properly.

Today, the danger is the other way round. When we try to do things properly, the public should not judge the Government as being too careful or slow. We should be careful and detailed, and need not rush and cut corners. At the end of the day, make sure the results are what you expect because they are all from public funds. 