

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Question no. 1

Senator XENOPHON: How much are you paying Mr Bradford?

Mr Harfield: We are paying a daily contract rate but I will have to take on notice what the daily rate is.

Senator XENOPHON: Yes, roughly.

Answer:

The daily rate contracted for Mr Bradford's services is \$4,500 plus GST. Mr Bradford is the Managing Director of HC Bradford and Associates, an associate partner of the International Centre for Complex Project Management (ICCPM), and his services are contracted through ICCPM.

ICCPM is a not-for-profit organisation established in 2007 as an independent, international, organisation with the objective of supporting both government and industry's ability to better deliver complex projects. Mr Bradford is a member of the ICCPM Board, and like all ICCPM Board Directors, this is a volunteer "pro bono" position.

The establishment of the ICCPM was led by the Australian Department of Defence (Defence Materiel Organisation) as part of Defence's Complex Project Management Initiative and received support from the UK Ministry of Defence, US Department of Defense, Canadian National Defence and the Defence Industry. The Complex Project Management Initiative was conceived as an international response to address regular failures to deliver complex projects by governments.

This initiative was recognised by the Australian Parliament in 2007 when the then Minister Assisting the Minister for Defence and the Minister for Veterans Affairs, tabled a Notice Pursuant to Section 45 of the *Commonwealth Authorities and Companies Act (1997)*.

Similar to other professional organisations such as the Australian Institute of Project Management (AIPM), individuals and companies belong to ICCPM in order to access the latest education and academic advancements, to network across organisations to share lessons and knowledge, and to build a cohort that together can address some of the most complex projects in history.

Airservices entered into a partner agreement with ICCPM in 2010.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Question no. 2

Senator XENOPHON: Can you advise us on notice or orally what information the board was provided when those key decisions were made? Were they provided details of any business case and any issues of apparent conflicts of interest? I am trying to work out how much or how little information the board had before they made such a big decision. I think that is a fair, objective question.

Mr Harfield: As we said, we are trying to arrange for the tender evaluation or probity plan associated with the program. That puts in the systems and processes to manage whether there was conflict of interest in the process. There is a tender evaluation plan for how the tender evaluation is to be assessed. That is endorsed by the Airservices board, and the tender evaluation process then continues and is run by the tender evaluation organisation.

Senator XENOPHON: You can provide us with copies of those, can't you?

Mr Harfield: Yes. I just need to take advice on the tender evaluation plan, but I will take it on notice.

Senator XENOPHON: Why wouldn't we be able to see that?

Mr Harfield: Because of the sensitivity of it. I just need to take advice on it. If I can provide it, I will.

Answer:

The Tender Evaluation Plan for the joint civil-military air traffic management system contains commercial-in-confidence information of both Airservices and the Commonwealth (Department of Defence) and disclosure could damage the negotiating positions as the contracts for the full scope of the OneSKY program have not been awarded.

The Plan was developed and approved by Airservices and Defence as well as Ashurst Australia as the Program Probity Advisor. As part of the establishment of robust governance processes for the procurement program, the Airservices Board noted the Tender Evaluation Plan in October 2013 before tenders were received.

The Airservices Board did not play a part in the tender evaluation, which was the responsibility of a joint Tender Evaluation Board (TEB) chaired by the Airservices CEO and comprising of Airservices and Defence executives.

The TEB met monthly during the tender evaluation to oversee the process and ensure that that the evaluation was conducted in accordance with the Tender Evaluation Plan.

The TEB kept the Airservices Board informed of progress and outcomes through each of the tender evaluation stages and the Airservices Board endorsed the decision at the end of the evaluation to commence negotiations with Thales Australia.

The Tender Evaluation Plan provides the framework for evaluation of tenders with due consideration to probity, confidentiality, ethical fair dealing and accountability across four discrete phases:

Phase 1: Initial Screening Process – compliance check with Conditions of Participation, Essential Requirements and Minimum Content and Format Requirements.

Phase 2: Initial Capability Assessment – based on defined elements of the tenderers response, an assessment of the technical maturity of the proposed solution, risks to proposed delivery schedule, approach to managing transition and maintain a long term relationship and the cost of ownership.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Phase 3: Detailed Evaluation – assessment of tendered responses against the stated evaluation criteria provided in the Conditions of Tender. In respect of the technical solution, this was limited only to the functional and performance requirements designated as Essential, Very Important or Important

Phase 4: Supplementary Evaluation – further assessment of tendered responses having consideration of desirable or plus technical requirements of the required solution.

A Contract Negotiation Strategy governs Phase 5 of the evaluation process – Negotiation and Scope Refinement, which is currently underway with Thales Australia.

Phase 5A – Clarification and Remediation – to clarify, improve and refine the tendered offer.

Phase 5B – Discovery - to achieve mutual disclosure and constructive testing, jointly by the tenderer, Airservices and Defence as to constraints, opportunities, assumptions, risks and dependencies as a basis for the critical negotiation of key scope and terms to be conducted during Phase 5C.

Phase 5C – Critical Negotiations - to address and agree the key scope and key contractual terms with the tenderer.

Phase 5D – Advanced Work to de-risk program execution and support.

Phase 5E – Detailed Negotiations to address the outstanding scope and contractual issues not resolved in each sub-phase.

We are currently undertaking Phases 5C and 5D activities with Thales Australia.

In February 2015, Airservices entered into an Advanced Work Supply Arrangement (AWSA) with Thales Australia as part of Phase 5D.

Work orders placed under the AWSA are for discrete tasks, intended to be brought forward from the full scope of the OneSKY program. This contracting strategy, which enables the performance of advance work prior to entering into a full contractual arrangement for the program, allows Airservices and Defence to validate proposals made by Thales Australia in respect of the solution and ensure a value for money proposition can be secured. The strategy is aimed at reducing risks to the project cost and schedule.

Strict controls are in place on the nature of the advanced work, to ensure that Airservices and Defence are able to utilise the work undertaken. If Airservices does not award the final contracts to Thales, Airservices has constructed an arrangement to novate work from Thales to another party.

As a standing agenda item, the Airservices Board continues to receive updates on the ongoing negotiations with Thales Australia. When contract negotiations are concluded the Airservices Board (and the Defence financial delegate) will approve entry into the OneSKY Australia contracts.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Question no. 3

Senator GALLACHER: Can you tell me why you spent \$7 million on separation and redundancies, in the 2013-14 year, in an environment where you were putting people on and growing?

Mr Logan: I would have to take that question, in detail, on notice.

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Senator EDWARDS: How many redundancies have there been over that period?

Mr Logan: I would need to take that on notice. The numbers that we were discussing before were about \$4 million, I think, a couple of years ago and maybe \$7 million the year before

Answer:

The 'Separation and redundancies' figures reported in our financial statements comprise of:

- **Termination expenses** paid during the year that covers people leaving the organisation for a number of reasons including restructuring, role redundancy or non-performance. These payments are required to be made to meet undertakings under Enterprise Agreements and Contracts of Employment.
- **Provisions** to cover anticipated terminations for the next year, less the opening provisions that were carried over from the previous year
- **Early retirement benefit expenses**, including early retirement benefits paid and provisions

Total Separation and Redundancy figures for the past four years are shown in the **Table 1** below.

There were 56 people in 2014-15 including 10 senior managers who were entitled to termination payments. There were 48 people who were entitled to termination payments in 2013-14 including two senior managers and three executives.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Table 1: Separation and Redundancy Costs

	2014/15 \$'000	2013/14 \$'000	2012/13 \$'000	2011/12 \$'000
Termination expenses paid	3,888	2,669	1,827	3,041
Provisions				
Opening provisions carried over	-2,361	-905	-432	- 1,262
Closing provisions for following year	1,209	2,361	905	432
Early Retirement Benefit				
Early retirement (converted benefits) paid	1,932	2,148	2,362	2,470
Actuarial valuations of provisions	-55	1,573	-550	2,777
Total Separation and Redundancy Costs	4,613	7,846	4,112	7,458

FY13 Early Retirement Benefit provision discount rate moved from 3.8% to 3.2% and decrement rates were also adjusted to reflect revised exit rates.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Question no. 4

Senator XENOPHON: I think Senator Gallacher might have some questions for you about these bonuses—sorry, these at-risk component elements. Sorry, I just have to get out the habit. I need to understand this: are there any at-risk component remuneration aspects that are in any way linked to the rollout of the ADS-B amongst any of your executives?

Mr Harfield: I need to take that on notice, because I do not have that detail in front of me. Specific to ADS-B I find that unlikely—

Senator XENOPHON: Not necessarily specific to ADS-B, but part of the package of rolling out certain technologies and rolling out certain things, including ADS-B, would be relevant in terms of that at-risk component of the remuneration.

Mr Harfield: For example, part of our delivery of our capital program is introducing more ADS-B antennas around the country. We have a program called enhancement for ADS-B and rolling out the antennas, and that would form a part of an executive's performance because it is part of the capital program and delivery of the capital program.

Senator XENOPHON: What I am worried about is that I speak to small operators who are worried sick about this. They say that it is going to mean the difference: either it will break some of them or, more disturbingly, some people, because of the financial pressures of this rollout, may cut corners. That is what I am worried about. That raises all sorts of other regulatory risks. Is there any aspect of this at-risk component of remuneration that is linked to the rollout or implementation of programs such as ADS-B?

Mr Harfield: I will have to take that on notice.

Answer:

Since 1 July 2014, performance payments for the at-risk component of remuneration for Executives have been made with reference to:

- Corporate Performance (Airservices performance as a whole) - 20%
- Business Group Performance (Performance against key indicators and initiatives for which the Executive's Business Group has primary accountability) - 60%
- Individual performance - 20%

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Question no. 5

CHAIR: How did Ashurst get the job? What was the process that gave them the job and not billy blogs?

Mr Harfield: Ashurst came through because of their skills and through a normal recruitment process.

CHAIR: Was there a list of people to choose from when you picked them, or did you think, "They'll do"?

Mr Harfield: There would have been a choice of firms to choose from and we took their experience in that matter.

CHAIR: Could we have that list?

Mr Harfield: Yes, we can provide that. I do not have that on me right now but we can provide that list.

Answer:

Airservices conducted an open market tender exercise in 2010 and established a panel of legal service providers comprising Ashurst Australia, Minter Ellison and Clayton Utz.

Following a selective tender from the three panel firms, Airservices engaged Minter Ellison to provide legal services on the OneSKY program in 2010, with Defence engaging Clayton Utz as its legal adviser. Airservices also appointed Ashurst as its Probitry Adviser.

In 2012, Ashurst was appointed to act as the joint probity adviser for both Airservices and Defence for the OneSKY Program.