

Senate Economic Reference Committee

Future of Australia's Naval Shipbuilding Industry – 8 September 2017

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: Possibility of Additional Information Being Included in Tender

Question reference number: 1

Senator: Carr

Type of question: asked on Friday, 8 September 2017, Hansard page 37

Date set by the committee for the return of answer: 29 September 2017

Question:

Senator KIM CARR: Yes, I understand that. I'm asking you a technical question. I'm not asking you to evaluate the worthiness of it, but is it possible to do that? My reading of the tender documents, which you appreciate have been tabled here, is that there is provision for the Commonwealth, under the key assumptions provisions under section 4—would that then go to the question of the tenderers being asked to provide additional information on an Australian build?

Mr Sargeant: On the basis of the statement I have read, I don't think it's appropriate for me to speculate on the tender documents.

Senator KIM CARR: I'm not asking you to speculate. I am asking whether it is technically possible—

Mr Sargeant: I don't know whether those are the actual tender documents.

Senator KIM CARR: You don't have a document? Perhaps we could provide the officers with a copy of the documents.

Mr Sargeant: On the basis of the statement I've made, I'm not prepared to talk about the process or the relevant documentation.

Senator KIM CARR: You're not prepared to talk about them?

Mr Sargeant: No, I'm not.

Senator KIM CARR: Just to be clear about this, I have asked you whether it is technically possible for the tenderers to be asked to provide additional information on utilising an Australian design-and-build contractor here.

Mr Sargeant: I'm not prepared to make a statement on that.

Senator KIM CARR: You just refuse to answer the question?

Mr Sargeant: Not while the tender processes, the evaluation processes—

Senator KIM CARR: I am asking a technical question as to whether it is possible under these tender arrangements for the government to ask for that to be done.

Mr Sargeant: I'll take that question on notice.

Senator KIM CARR: Thank you. If that were to be done, would that delay, and if so by how much, the tender process?

Mr Sargeant: I will take that question on notice as well.

Answer:

The Future Frigate Competitive Evaluation Process is at a sensitive stage. Defence is currently evaluating the tenders under strict probity constraints which are designed to prevent undue influence on the process and avoid any real or perceived conflicts arising.

At this stage any real or perceived probity issues could jeopardise the successful completion of the project or have major negative consequences for the progress of the Competitive Evaluation Process and subsequently on the achievability of the 2020 construction date.

Defence is therefore limited in what it can disclose publicly at this stage.

Senate Economic Reference Committee

Future of Australia's Naval Shipbuilding Industry – 8 September 2017

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: Reason for Inclusion of Clause in RFT Documents

Question reference number: 2

Senator: Carr

Type of question: asked on Friday, 8 September 2017, Hansard page 39

Date set by the committee for the return of answer: 29 September 2017

Question:

Senator KIM CARR: So, I will ask you this, on notice, if you can't answer it now, if you want to study the context: what was the thinking, the department's view, behind the inclusion of those clauses in section (d), which specifically said that the Commonwealth would not mandate the use of the workforce—that's what it says, the workforce—of ASC. It actually goes further than simply saying ASC, it says the workforce of ASC. It goes on to say that the successful tenderer will 'directly manage and supervise the workforce undertaking the shipbuilding work'. What was the thinking behind the inclusion of those clauses?

Mr Sargeant: I will take that on notice and also seek advice from the minister.

Answer:

The Future Frigate Competitive Evaluation Process is at a sensitive stage. Defence is currently evaluating the tenders under strict probity constraints which are designed to prevent undue influence on the process and avoid any real or perceived conflicts arising.

At this stage any real or perceived probity issues could jeopardise the successful completion of the project or have major negative consequences for the progress of the Competitive Evaluation Process and subsequently on the achievability of the 2020 construction date.

Defence is therefore limited in what it can disclose publicly at this stage.

Senate Economic Reference Committee

Future of Australia's Naval Shipbuilding Industry – 8 September 2017

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: Provision of Advice

Question reference number: 3

Senator: Carr

Type of question: asked on Friday, 8 September 2017, Hansard page 41

Date set by the committee for the return of answer: 29 September 2017

Question:

Senator KIM CARR: Mr Sargeant, I asked a simple question: how do you account for the difference in attitude?

Mr Sargeant: I can't, because I wouldn't make a judgement until I'd spoken to the people involved.

Senator KIM CARR: Thank you very much. Is it the case, Mr Sargeant, that Defence provided a written or verbal guidance to ministers' offices regarding this agreement?

Mr Sargeant: I'd have to take that on notice. I just can't—

Senator KIM CARR: Perhaps you could advise the committee on when that occurred.

Mr Sargeant: I'd have to take that on notice as well.

Senator KIM CARR: Can you advise the committee whether or not the minister provided advice or instructions to the department in the wake of that announcement?

Mr Sargeant: I'm not aware of any, but I'd have to check.

Senator KIM CARR: I'm just wondering, given the position that the government's publicly stated about the development of a national, or a sovereign, capability in terms of the naval shipbuilding program: how does the RFT seek to do that?

Mr Sargeant: I'd prefer to take that one on notice as well.

Answer:

Answer to Questions 1, 2 and 3:

Defence has provided ongoing advice to the Minister in relation to various aspects of the SEA 5000 Competitive Evaluation Process. The substance of the advice relates to internal deliberations of Government and Defence is unable to provide any further details.

Answer to Question 4:

The SEA 5000 Future Frigate program is fundamental to the National Shipbuilding Plan's continuous shipbuilding goal. Accordingly, the Future Frigate Request for Tender sets out a number of key objectives consistent with the plan that requires

tenderers to maximise Australian industry involvement and contribute to the growth of a sovereign ship design and build capability.

Senate Economic Reference Committee

Future of Australia's Naval Shipbuilding Industry – 8 September 2017

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: Grant of Extension to Tenderers

Question reference number: 4

Senator: Carr

Type of question: asked on Friday, 8 September 2017, Hansard page 42

Date set by the committee for the return of answer: 22 September 2017

Question:

Senator KIM CARR: Mr Sargeant, can I ask you this: did the department, following the teaming announcement, provide the designers with a two-week extension?

Mr Sargeant: Yes.

Senator KIM CARR: Why was that?

Mr Sargeant: To provide them more time, because of the potential disruption that the Austal-ASC announcement may have caused.

Senator KIM CARR: Mr Sargeant, could you explain to the committee what the disruption was that you were anticipating.

Mr Sargeant: That the tenderers may have felt that the government's decision was being buried.

Senator KIM CARR: Did you have a request from the designers in that regard?

Mr Sargeant: I'm not aware of any, but I'd have to take that on notice.

Senator KIM CARR: Thank you. Were there any reservations expressed by any of the designers that they felt that there was some confusion on this matter?

Mr Sargeant: I'm not aware of any, but I wasn't—

Senator KIM CARR: Mr Gillis, did he feel that he had initiated any contact with the designers that would suggest confusion?

Mr Sargeant: I think that's a question for Mr Gillis.

Senator KIM CARR: He's not here today, is he?

Mr Sargeant: He's not here. He's overseas.

Senator KIM CARR: He's overseas. Oh dear. Right. We might have to have another hearing. Could you just explain to me—I just can't quite follow this—the rationale for the extension. Can you just explain that to me, just clarify that?

Mr Sargeant: I think it might—

Senator KIM CARR: There was no contact from the designers?

Mr Sargeant: I think it would be better if I took that question on notice to ensure that you get a precise and proper answer.

Senator KIM CARR: All right. And what was the purpose for the extension?

Mr Sargeant: For the same reasons, I'll take that one on notice too.

Answer:

This question was answered directly by Mr Kim Gillis on Friday, 13 October 2017 at the Committee's public hearing in Adelaide (refer pages 46 – 47).

Senate Economic Reference Committee

Future of Australia's Naval Shipbuilding Industry – 8 September 2017

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: Process Leading to Clause in RFT Documents

Question reference number: 5

Senator: Xenophon

Type of question: asked on Friday, 8 September 2017, Hansard page 46

Date set by the committee for the return of answer: 29 September 2017

Question:

Senator XENOPHON: So it's a matter then to go through a process with the minister. Mr Fitzpatrick, you're the program manager for the frigate program. I understand you have some commercial experience in shipbuilding. Is that right? Can you outline briefly—I don't want your whole CV—your experience in that.

Mr Fitzpatrick: In shipbuilding, I've worked for the department previously in the delivery of the landing helicopter dock project.

Senator XENOPHON: Do you have any knowledge of the process that led to that sort of clause in the request for tender that appears to specifically exclude Australian companies from being the primes for the frigate program?

Mr Fitzpatrick: As Mr Ablong said earlier, a decision was made by government as to who to issue the tender to.

Senator XENOPHON: Was that decision by government one that had the input of Defence in terms of process?

Mr Sargeant: Yes. Government makes decisions on the advice of Defence and others.

Senator XENOPHON: Are you able to say that this particular clause in the request for tender was based on advice from Defence?

Mr Sargeant: I would have to take that on notice.

Senator IAN MACDONALD: And you'd want to check whether that is advice to government which is properly disposable to these committees.

Mr Sargeant: It's a very specific question and I'd want to ensure, if I am able to answer it, a precise and specific answer.

Answer:

The Future Frigate Request for Tender was issued to three companies selected by the Government based on their significant world-class experience as both ship designers and builders. The selection of these companies was based on analysis undertaken by the RAND Corporation and made well in advance to the release of the Request for Tender. The Request for Tender is supported by the Government's independent Naval Shipbuilding Advisory Board.

The Future Frigate Request for Tender does not exclude any Australian companies from participating in the project. To the contrary, the project represents a significant opportunity for the Australian shipbuilding industry to work with the successful tenderer in executing Australia's continuous naval shipbuilding program.

There is nothing in the Request for Tender that precludes the tenderers engaging ASC or Austal. Throughout the tender process Defence has facilitated tenderer engagement with ASC.