

Public Accounts and Audit

Parliamentary Inquiry - 2018-19 Defence Major Projects Report and Future Submarine Project - Transition to Design (Auditor-General's Reports 19 and 22 (2019-20))

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q7 - Alternative Contract Negotiation Plans - Patrick

Question reference number: 7

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Para 2.19 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

In Sep 19, Defence advised the ANAO that “The Naval Shipbuilding Advisory Board recommended that Defence consider alternatives to the current plan in the context of determining if there was a best alternative to a negotiated agreement (BATNA) in the event contract negotiations were not successful. In response to this, Defence examined the additional service life of the Collins class that would be delivered under life-of-type extension activities, and the time this would allow to develop a new acquisition strategy for the Future Submarine if necessary. The Naval Shipbuilding Advisory Board expressed a separate view that, even if the Strategic Partnering Agreement negotiations were successful, Defence consider if proceeding is in the national interest. This consideration was represented in the advice to Government seeking approval to enter the Strategic Partnering Agreement.”

1. How many alternatives did Defence consider?
2. Were all of these alternatives discussed with and/or presented to the Naval Shipbuilding Advisory Board?
 - a. If so did they provide any further feedback to Defence?
 - b. If so did they provide any additional guidance direct to the Minister(s)/Government?
3. Did the Government seek any direct advice or comments from the Naval Shipbuilding Advisory Board?

Answer:

Please refer to response Q152 from Senate Standing Committee Foreign Affairs, Defence and Trade Additional Estimates.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q9 - RAND Assessment of Naval Group Costings - Patrick

Question reference number: 9

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Para 2.24 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

To inform its advice to government, Defence commissioned RAND Corporation to undertake an initial assessment of Naval Group's costings for the design process. The 18 May 2018 RAND report informed Defence's advice on value-for-money issues. RAND Corporation's assessment was:

The overall design costs appear to be consistent with similar programs. The total design labour hours are consistent with a new submarine design using modern design tools and the labour rates are consistent with other industry benchmarks.

1. What were Defence's findings when they assessed/compared the labour rates used by Naval Group with Defence's benchmark rates?
2. Did the review assess the preliminary design process, the detailed design process or both?
3. Did RAND assessment consider the schedule?
 - a. If yes, what feedback did they provide?
 - b. If no, why did defence not get RAND to review the schedule?
4. Did RAND provide any advice or comments regarding the allocation of work:
 - a. across the phases?
 - b. Against higher level WBS items?
5. How did Naval Group's costings compare to what they delivered as part of the CEP?

Answer:

1. Naval Group's labour rates were assessed as reasonable and consistent with other industry benchmarks.
2. RAND was engaged to support cost assurance of Naval Group's offer for preliminary design.
3. The cost assurance process included a process of assessing Naval Group's preliminary design offer for completeness, substantiation, suitability, and reasonableness. RAND assessed that design costs appeared consistent with similar programs. RAND did recommend that Defence continue to work with Naval Group to refine scheduling and work package tracking in future design phases.
- 4a. See response to question 3.
- 4b. RAND assessed that there were no major cost elements missing in the offer for preliminary design, and that most cost accounts included detailed labour resource lists. Material and other direct costs were individually identified with a summary basis of estimate.
5. Naval Group's costings were accommodated within the budget for the Future Submarine Program, which was modelled on Naval Group's Competitive Evaluation Process response.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q10 - External Advice - Patrick

Question reference number: 10

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On external advice:

1. How many non-defence entities has Defence engaged to provide independent external advice and/or review of the Future Submarine project to date?
2. Could defence please list the entities?
3. What is the associated cost to date?

Answer:

1. Ten.
2. The entities are:
 - Naval Shipbuilding Advisory Board;
 - Negotiation Reference Committee;
 - Submarine Advisory Committee;
 - Submarine Infrastructure Review Team;
 - SEA1000 Expert Advisory Panel;
 - Independent Submarine Capability Assurance Committee;
 - RAND Corporation;
 - First Marine International;
 - Mr Peter Colin Earnest Baxter; and
 - Mr Kim Gillis.
3. \$5.06 million. This figure does not include costs related to the Naval Shipbuilding Advisory Board as they provide independent external advice and review for all Naval Shipbuilding Programs.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q11 - First Submarine Delivery Date - Patrick

Question reference number: 11

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Para 2.27 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

“Defence advised the ANAO in September 2019 that notwithstanding the delay in negotiations and other specific milestone slippages, it was too soon to vary the delivery date for the Future Submarine Program.”

1. What is the basis for Defence being able to assert that the delivery date for the first submarine will not be delayed?
2. What is the level of confidence level in this position?

Answer:

Design of the Future Submarine remained underway throughout negotiation of the Strategic Partnering Agreement under the Design and Mobilisation Contract. The current design schedule experienced a delay of five weeks in October 2019. This delay is assessed as recoverable by the next major milestone (Systems Functional Review), which is contracted to take place in January 2021.

The commencement of construction activities in Australia and the delivery of the Future Submarines has not been delayed.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q13 - Goal Statements One, Five & Six - Contractual Framework - Patrick

Question reference number: 13

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Table 2.1 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

Goal Statement 1: The contractual framework reflects the undertakings and commitments of Naval Group during the Competitive Evaluation Process (CEP), which were the basis of Naval Group's selection

1. Is this an accurate statement in relation to the AIC Plan delivered by Naval Group?

Goal Statement 5 "The contractual framework includes appropriate obligations and rights concerning intellectual property, Australian industry capability, transfer of technology, access to technical data and cost transparency."

2. What if any guidance has been provided to the Prime contractors in relation to treatment/handling of IP owned by Australian companies and therefore resident in Australia?

Goal Statement 6 "The contractual framework promotes the establishment of a capable and competent NGA [Naval Group Australia] as the builder of the Attack class fleet and as the enduring Design Authority for sustainment that operates under sound governance and management arrangements underpinned by appropriate means for the Commonwealth to protect its interests including through asset securities.."

3. Noting Naval Group Australia is a wholly owned subsidiary of Naval Group France.

a. What provides the Commonwealth with confidence that the subsidiary is in fact sufficiently empowered to enforce the goals?

b. Has the Commonwealth stipulated any mechanisms to provide a level of independence or protection from undue influence from their foreign owner that would undermine the Commonwealth's goals?

c. If so what mechanisms were established?

4. What remedies does the Commonwealth have if it becomes clear that the goal is not going to be met?

Answer:

1. Yes.
2. The Strategic Partnering Agreement contains appropriate provisions for the access to, use and protection of Intellectual Property owned by the parties, and by subcontractors. These provisions have been negotiated under conditions of confidentiality and are commercially sensitive. Defence has provided guidance to Naval Group to reflect these provisions in subcontracts.
3. The Strategic Partnering Agreement sets out appropriate contractual obligations for both Naval Group and Naval Group Australia, as parties to that Agreement, to establish within Naval Group Australia the resources and capabilities to perform its roles and responsibilities under the Future Submarine Program, which include the build of the Attack Class Submarine Fleet and as the enduring Design Authority for the sustainment of that fleet in Australia.

The contractual mechanisms under the Strategic Partnering Agreement include plans to be approved by Defence and implemented by Naval Group and Naval Group Australia, to establish these resources and capabilities for Naval Group Australia to perform its roles in the Program.

4. The detailed provisions for remedies under the Strategic Partnering Agreement have been negotiated by the Commonwealth with Naval Group under conditions of confidentiality and are commercially sensitive.

The Strategic Partnering Agreement contains a framework to manage the parties' respective obligations and performance to deliver the Program. This framework includes provisions which, in appropriate circumstances, provide mechanisms to require a party to achieve the contracted outcomes, and to deal with the consequences if such contractual obligations are not met.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q17 - Extension of Design Completion Work - Patrick

Question reference number: 17

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

Para 3.5 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

“Defence advised government in February 2019 that Naval Group had proposed to extend the completion date for Future Submarine design work from July 2022 to September 2023 — some 15 months later than planned by Defence in its pre-design contract planning”

1. What was the rationale for the proposal to extend the completion date?
2. How does the 9 month extension accord with RAND's previous assessment of the total labour hours being consistent with the design work for a new submarine program?

“lowering the risk of severe schedule or cost overruns during the construction phase of the program”

3. What criteria make the overrun “severe”?

“The effects of this proposed extension on the overall program schedule had not been assessed at the time Defence provided its advice to government”

4. Has this now been assessed and advised to the Government?

Answer:

1. The schedule addresses Defence requirements for high-levels of design maturity as the design phase of the Program progresses, and accounts for higher levels of Defence interaction and oversight during the design process. This is based on major lessons learnt from the Collins and Air Warfare Destroyer Programs.
2. RAND recognised that the Future Submarine Program was at the feasibility design phase at the time of its review, and technical details still needed to evolve.
3. At the Program level, 'severe' is defined in terms of cost as an impact for the following stage, remainder of the project or capability life-cycle of greater than \$250 million. Such risks tracked at the Program level exclude external factors such as foreign exchange adjustment and inflation that drive the out-turned cost of the Program. In schedule terms it is defined as a critical path schedule impact in excess of two years.
4. The extended schedule for the design work has not impacted the scheduled delivery date of the first or follow on submarines.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q18 - Lockheed Martin Major Sub-Contracts - Patrick

Question reference number:

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Table 3.2 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

1. Please provide a list of major sub-contracts (>\$4 Million) issues by Lockheed Martin Australia, including the entity, the scope of work and total cost?

Answer:

Defence has the following major sub-contract issued by Lockheed Martin Australia. Further sub-contracts will be announced in due course.

Component / Subsystem	Scope of Work Outline	Subcontractor	AUD\$m
Optronics Outboard Search & Attack, Navigation Data Distribution, Nav/NDS Radar	Design to PDR/CDR	Safran Electronics & Defense Australasia Pty Ltd, Australia	36.8

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - Q20 - Incomplete Studies - Patrick

Question reference number: 20

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Para 3.15 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

Defence identified that 63 studies had not been completed by Naval Group, which were required to complete the Preliminary Design: Feasibility Phase of the Future Submarine Programs.

1. What were these documents?
2. When were these documents accepted by the Commonwealth?

Answer:

1. Naval Group, at the beginning of the Feasibility Studies phase, listed potential studies which may be required to assess various design options. 63 of the 120 studies were not yet complete in July 2018. At the exit of Concept Studies Review on 12 February 2019, 22 of the 63 studies had been completed, 20 were no longer required, and 21 were transferred to the Definition Studies Phase.
2. Defence was not required to accept the studies.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q22 - Design and Mobilisation Contract - Patrick

Question reference number: 22

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Para 3.22 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

Dot points 4 and 5 state:

- “on 28 February 2019, the term of the Design and Mobilisation Contract was amended from 31 March 2019 to 28 February 2019 to align with the Submarine Design Contract's effective date of 1 March 2019. The value of the Design and Mobilisation Contract was reduced by \$21,804,752 to reflect this amendment; and”
 - “on 6 August 2019, the Design and Mobilisation Contract was further amended to reflect the transfer of residual scope to the Submarine Design Contract. The value of the Design and Mobilisation Contract was reduced by \$18,001,002 to reflect this amendment.”
1. The term of the Design and Mobilisation Contract was amended to conclude on 28 February 2019, yet it was then further amended on 6 August 2019, but by that stage the contract should have been concluded.
 - a. What deliverables from the Design and Mobilisation Contract were not completed by 6 August and were transferred to the Design Contract?
 - b. What residual funds were remaining on 28 Feb 2019 when the contract ‘concluded’?
 - c. Are there any deliverables from the Design and Mobilisation Contract that have not yet been accepted by the Commonwealth?
 2. The cumulative changes to the Design and Mobilisation Contract resulted in Naval Group securing being awarded an additional \$68,391,561.
 - a. What is the basis for Defence agreeing to pay Naval Group more than \$68 million dollars when the indications are that the delays were due to the contractor failing to deliver what they were contracted for (on time and/or to the standard expected)?

Answer:

- 1a. The activities that were transferred to the Submarine Design Contract (SDC) included activities in relation to critical equipment subcontracts and qualification testing of Australian steel. These activities were ongoing activities that were planned to extend beyond the duration of the Design and Mobilisation Contract (DMC) and be transferred into the SDC once a specific work scope (known as Additional Work Scope 1) was established.
- 1b. The end of the term of the DMC did not mark the closure of the contract. In the best interests of the Program, the scope as described in question 1a, was retained within the DMC until the SDC Additional Work Scope 1 was established. The outstanding commitment as at 28 February 2019 was equivalent to \$100.5 million in Australian dollars. This amount includes provision for work completed but yet to be invoiced by Naval Group or paid by Defence.
- 1c. No.
- 2a. The DMC was established to continue work on the Future Submarine Program in accordance with planned activities until the Strategic Partnering Agreement (SPA) and SDC were executed. The contract changes to the DMC were undertaken to ensure design continuity whilst the SPA and SDC were being finalised and executed. All work conducted under the DMC proceeded with Government approval and within the approved budget for this work, and all payments to Naval Group were made in accordance with the Commonwealth Procurement Rules.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q23 - Workforce - Patrick

Question reference number: 23

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Para 3. (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

There is a recognised shortage of these skills within the APS [Australian Public Service] and ADF [Australian Defence Force], and domestic and global supply markets are limited across the private sector. The Commonwealth must also compete for specialist resources with its International Partner and Combat System Integrator, and other Defence programs and their suppliers. It is in this context that the existing Seconded workforce and supporting arrangements have been developed.

1. What is being done to address the shortages of skills within the APS and ADF?
2. How many APS personnel were employed by the project on 1 July 2017, 2018 and 2019?
3. How many ADF personnel were employed by the project on 1 July 2017, 2018 and 2019?
4. How many contractors were employed by the project on 1 July 2017, 2018 and 2019?
5. What is the premium paid for employment of contractors over APS personnel?

Answer:

1. Defence is managing a 20 year plan to build an Australian Public Service talent pool in support of the Australian Government's Naval Shipbuilding Plan. The development of APS and ADF will leverage broader efforts across Defence supported by personnel working as secondees from industry. Navy's submarine workforce needs required to deliver the future expanded submarine capability has been established and has been incorporated in the Navy future workforce plans.

2-4. Personnel employed by the Program Office

	As at 30 June 2017	As at 30 June 2018	As at 30 June 2019
Australian Public Service officers	27	75	88
Australian Defence Force members	4	2	4
Contractors / Secondees from Industry	72	111	121

5. Industry is an essential part of supporting the delivery of what is one of the largest programs ever undertaken in Australia. The Future Submarine Program has engaged a range of subject matter experts from industry given not all of the required skill sets are available within the Australian Public Service or the Australian Defence Force. The costs of their engagements cover company costs and related expenses. Given the diverse range of skills, knowledge, competency and experience, it would be misleading to suggest a premium is paid to contractors over Australian Public Service officers. The decision to engage a contractor, includes a value for money assessment, the identification of the specific skills, knowledge, experience and competency required to undertake the role.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q26 - Information Communication Technology Way Forward Review - Patrick

Question reference number: 26

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

Table 3.1 and para 3.52 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

An Information Communication Technology/Transfer of Technology Way Forward Review was scheduled for Sep 2019, defence advised the ANAO in Sep 2019 that the Way Forward Review had been delayed.

1. Has the Information Communication Technology/Transfer of Technology Way Forward Review now been conducted?
 - a. When was it conducted?
 - b. If not, why not?
 - c. If so, were there any incomplete items?

Answer:

The Information Communication Technology Way Forward Review was held on 26 September 2019. There are no incomplete items outstanding from that review.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q27 - Design & Mobilisation Contract, AIC Involvement - Patrick

Question reference number: 27

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Figure 3.2 (Pg 37) (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

Design and Mobilisation Contract Stream of Activities Stream 5. Australian Industry Involvement

- Australian Industry Content (AIC) Strategy
- AIC Plan for the Submarine Design Contract
- Australian Build Strategy
- Build Strategy
- Australian Steel Development and Qualification

1. What were the deliverables associated with stream 5 and what is their status?

Answer:

The versions of the Australian Industry Capability Strategy, Australian Industry Capability Plan, Development of the Australian Build Strategy and Build Strategy required under the Design and Mobilisation Contract have been approved by Defence.

An interim version of the Australian Steel Development and Qualification document has been approved. This deliverable will be further developed under the current Submarine Design Contract to reflect steel qualification activities, which are progressing to plan.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: JCPAA - 20 Apr 2020 - Q30 – Submarine Advisory Committee - Patrick

Question reference number: 30

Senator/Member: Rex Patrick

Type of question: Written

Date set by the committee for the return of answer: 8 May 2020

Question:

On Figure 1.2, para 3.56, para 3.57 and para 3.58 (of Auditor-General's Report 22 Future Submarine Project – Transition to Design):

In February 2019, Defence advised the Government that a key strategy to address the 'high' risk of the Future Submarine Program was ongoing review of the program by the Naval Shipbuilding Advisory Board and the Submarine Advisory Committee.

Defence advised the ANAO that it provides submissions to the Submarine Advisory Committee if and when needed. Defence provided submissions to this Committee during 2017 and up until July 2018.

1. How much money has been paid to the Submarine Advisory Committee each year since its establishment?
2. How often does the Submarine Advisory Committee meet?
3. Noting the Submarine Advisory Committee is part of the key strategy to address the high risk of the program, why has the project not provided them with any submissions since July 2018?
4. What was the delivery date (In service date) for the first submarine as per the Integrated Master Schedule Defence attached to the Design and Mobilisation contract?
5. As at the current time, are any contracted deliverables outstanding/late?
 - a. If so how many?
 - b. What are they and how late are they?

Answer:

1. The Submarine Advisory Committee was appointed on 4 December 2017, first convening in January 2018. Total payment to the Committee members to date has been as follows:

FY 2017/18	FY 2018/19	FY 2019/20 to 31 Mar 20
\$79,356.00	\$447,297.00	\$288,995.00

2. The Submarine Advisory Committee convene up to four times per calendar year. In 2018, the Committee convened on four occasions. In 2019, the Committee convened on three occasions. In 2020, the Committee has convened once noting limitations on international travel as a result of the COVID-19 global pandemic.
3. The Submarine Advisory Committee meet with a range of stakeholders during each session, including representatives from Navy, the Capability Acquisition and Sustainment Group and industry. During each of these engagements, Defence stakeholders provide briefings to the Committee to inform their deliberations. These briefings do not always take the form of written submissions. The Committee also attends program reviews, allowing it to make independent assessments of risks based on the detailed information presented on these occasions.
4. The delivery date for the first submarine is 30 September 2032. The submarine is scheduled for operational test and trials over the period from October 2032 to September 2034. .
5. 57 documents are currently in review or, having been reviewed, are subject to revision by Naval Group.