

Department of Finance

Response to Question on Notice

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Australian Government Procurement Contract Reporting Auditor-General's report No. 19 (2017-18)

Friday, 23 March 2018

GENERAL COMMENTS

Nil

SPECIFIC QUESTIONS ON NOTICE

Question 1 (Hansard Proof, Page 6)

Mr HILL: I've just got a couple of questions to Finance on another issue, and then to the ABS on a different issue. The Department of Finance, as part of the general sort of procurement transparency, provides data on value and number of contracts identified for reporting entities as primarily or entirely based outside Australia. The website data that I've seen talks about \$6.47 billion in 2016-17, so about 13 or 14 per cent. I'm not asking you to verify the figures, but there's a table we've cut from the website for that there. I'm just trying to understand. Do these figures represent procurement projects that take place overseas or contract procurement of entities based overseas?

Mr Hunt: We'll have to take that on notice to work out exactly what that applies to. I think it's a bit of a mix of both, but I'd have to confirm that on notice.

Mr HILL: Okay. I can give you the table, but it's—

Mr Hunt: I know the table.

Response

The *2016-17 Procurement Contracts: Overseas* table on the *Statistics on Australian Government Procurement Contracts* webpage reports the number and value of contracts awarded to suppliers with an overseas address. Goods and services covered by these contracts may be delivered or performed in Australia or overseas.

Question 2 (Hansard Proof, Page 6)

Mr HILL: Okay, thank you. And then the subsequent question is: are tenderers required to disclose where they're headquartered and their domicile for taxation purposes when responding to a request for tender or when applying for inclusion in a panel arrangement?

Mr Hunt: Not routinely. They're required to provide their ABN. There is a new requirement that came into the CPGs from 1 March last year around economic benefit, and there may be instances where, as part of a tender process, those sorts of details are an input into the economic benefit assessment. But in general, particularly for lower value contracts, the contract is with an entity that provides its ABN number.

Mr HILL: Would it be possible to amend the Commonwealth Procurement Rules to include such a requirement, with part of the obvious intention—but not solely—being to flush out those firms that are getting Commonwealth business that are domiciled in tax havens?

Mr Edge: I think we would have to take that on notice.

Mr HILL: But would it be possible to amend the rules in such a way, and what would the implications be?

Mr Edge: As I said, I think we would have to take that on notice. We would have to do a bit of research on that point, I think, before we could give you an answer.

Mr HILL: So we don't know, at the moment, the extent to which businesses that are domiciled in tax havens may be receiving Commonwealth work?

Mr Edge: We'd have to take that on notice as well.

Mr HILL: Could you take all of those questions on notice.

Response

Information on where suppliers are located for tax purposes is not collected or held centrally. Questions on particular information collected through approaches to market should be directed to individual agencies.

The Commonwealth Procurement Rules (CPRs) outline the core of the procurement framework, including the basic rule set for all Commonwealth procurement.

- Paragraph 10.17 of the CPRs requires that a relevant entity may exclude a tenderer on grounds such as bankruptcy, insolvency, false declarations, or significant deficiencies in performance of any substantive requirement or obligation under a prior contract.
- Paragraph 10.18 of the CPRs requires officials to make reasonable enquiries that the procurement is carried out considering relevant regulations and/or regulatory frameworks.

Contract terms and conditions would generally set out the expectation on a supplier in regard to compliance with the law.

Question 3 (Hansard Proof, Page 6)

CHAIR: The Australian National Audit Office reports over a five-year period. It might be in the responses you've provided to us, but have you had an opportunity to look with a wider historic lens over that same dataset?

Mr Edge: I'm sorry, Chair; could you clarify the question a little bit, please?

CHAIR: Yes. The audit report paints a five-year picture. I'm wondering: has Finance gone and looked at a 10- or 15-year picture, and what has it said? The answer might be no.

Mr Hunt: We have, on some criteria. We've had a look, for example, at consultancies over a 10-year period. There's no clear trend. There are peaks and troughs and peaks again. The most recent peak—which was in the five-year period covered by the ANAO report—is not as big as the previous peak, which was a few years earlier than that.

CHAIR: Can you provide to the committee some information in regard to that analysis that you did over the wider period?

Mr Hunt: Certainly we can take that on notice.

Response

The table below reflects the value of consultancy contracts reported on AusTender over the last ten financial years, based on contract data extracted from AusTender on 3 January 2018. Since 2011-12, the proportion of AusTender contract notices by value that are flagged as consultancy contracts has remained relatively consistent at around 1 per cent, having fallen from a peak of around 1.6 per cent in 2008-09.

| \$m | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17 |
|-----------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Consultancy contracts | \$441.2 | \$544.8 | \$555.4 | \$490.4 | \$444.6 | \$383.5 | \$376.4 | \$445.0 | \$536.3 | \$499.2 |
| All contract notices | \$31,889.4 | \$33,791.5 | \$49,417.2 | \$33,514.0 | \$44,983.9 | \$43,634.9 | \$40,906.5 | \$46,378.4 | \$56,991.8 | \$46,526.7 |
| Percentage | 1.4% | 1.6% | 1.1% | 1.5% | 1.0% | 0.9% | 0.9% | 1.0% | 0.9% | 1.1% |