

**Joint Committee of Public Accounts and Audit**

**Parliamentary inquiry – Personnel security, domestic passenger screening –  
Auditor General's reports 38 and 43**

**ANSWER TO QUESTION ON NOTICE**

**Department of Defence**

**Topic: JCPAA - Auditor General's reports 38 and 43 (2017-18) - 12 February 2019 - Q1 -  
Previous QONs Hill**

**Question reference number: 1**

**Member: Hill**

**Type of question: Spoken**

**Date set by the committee for the return of answer: 4 March 2019**

**Question: Mr HILL: This is to the Department of Defence, firstly: why did it take you three months to provide answers to very straightforward questions?**

**Mr Fortune: We provided the answers to questions on notice through our parliamentary processes in the department. I can't talk to the time frames in which they came to this committee.**

**...  
Mr HILL: Can you provide then further information as to precisely, for every question, where it was at which point? Who cleared it, and when? I just think it's incredibly disrespectful to the parliament and the committee. These are not complex matters. It was an important public hearing, and everything went into a complete black hole for three months. Indeed in our private meeting before we were looking at the overdue questions on notice, and the vast majority of them are from your department—and it's not classified information; it's basic administration.**

**Mr Fortune: I'll take that on notice.**

**Answer:**

The department received one written question from the committee, one request for further information (RFI) and took seven questions on notice the day of the hearing. The due date for QONs was 4 September 2018.

A breakdown of the life of each question is as follows:

**Question 1 - AGSVA**

- RFI received 20 August 2018
- Submitted for clearance to Minister for Defence: 22 August 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Returned to the Department for redraft: 19 November 2018
- Resubmitted to Assistant Minister for Defence: 21 November 2018
- Cleared for tabling: 27 November 2018
- Tabled: 28 November 2018

**Question 2 - Clearance Waivers for non-nationals**

- Hansard received: 31 August 2018
- Submitted for clearance to Minister for Defence: 13 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Returned to Department for redraft: 19 November 2018
- Resubmitted to Assistant Minister for Defence: 21 November 2018
- Cleared for tabling: 27 November 2018
- Tabled: 28 November 2018

**Question 3 - Misaddressed documentation**

- Hansard received: 31 August 2018
- Submitted for clearance to Minister for Defence: 13 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Cleared for tabling: 27 November 2018
- Tabled: 28 November 2018

**Question 4 - Positive Vetting Service Provider ICT Compliance:**

- Hansard received: 31 August 2018
- Submitted for clearance to Minister for Defence: 13 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Cleared for tabling: 14 November 2018
- Tabled: 14 November 2018

**Question 5 - Entities Working for Foreign Countries:**

- Hansard received: 31 August 2018
- Submitted to Minister for Defence Personnel: 13 September 2018
- Submitted for clearance to Minister for Defence: 20 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- MO cleared for tabling: 14 November 2018
- Tabled: 14 November 2018

**Question 6 - Percentages of clearances denied or downgraded:**

- Hansard received: 31 August 2018
- Submitted to the Minister for Defence Personnel: 13 September 2018
- Submitted for clearance to Minister for Defence: 20 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Cleared for tabling: 14 November 2018
- Tabled: 14 November 2018

**Question 7 - Contractors:**

- Hansard received: 31 August 2018
- Submitted to Minister for Defence Personnel: 13 September 2018
- Submitted for clearance to Minister for Defence: 20 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Cleared for tabling: 14 November 2018
- Tabled: 14 November 2018

**Question 8 - Outsource and in-house vetting:**

- Hansard received: 31 August 2018
- Submitted to Minister for Defence Personnel: 13 September 2018
- Submitted for clearance to Minister for Defence: 20 September 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Cleared for tabling: 14 November 2018
- Tabled: 14 November 2018

**Question 9 - AGSVA vetting costs:**

- Written QON received: 17 September 2018
- Committee due date: 28 September 2018
- Submitted for clearance to Minister for Defence: 2 October 2018
- Reassigned to Assistant Minister for Defence: 31 October 2018
- Cleared for tabling: 14 November 2018
- Tabled: 14 November 2018

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### ANSWER TO QUESTION ON NOTICE

#### Department of Defence

**Topic:** JCPAA - Auditor General's reports 38 and 43 (2017-18) - 12 February 2019 - Q2 - Foreign Ownership - Hill

**Question reference number:** 2

**Member :** Hill

**Type of question:** Spoken

**Date set by the committee for the return of answer:** 4 March 2019

**Question: Mr HILL:** Thank you. Just to follow up with regard to some of the questions, the answers don't actually address the questions. Let's go through some of them—that's why we wanted to get you back. Firstly, in relation to the questions that I posed—and we had a number of discussions with Ms Brodtmann and me regarding the 14 companies that provide positive vetting services as members of the Defence Industry Security Program. Your answer says that:

No current Industry Vetting Panel (IVP) company has foreign ownership or identified issues with foreign engagement— and— companies are required to report annually on the terms of their Defence security accreditation.

What constitutes foreign ownership? Is that any foreign ownership, majority foreign ownership or full foreign ownership?

**Mr Fortune:** For industry security program, I think it's foreign ownership or control detail. I'll have to take the specific definition in terms of the nuances. But, as we provided in the question that you asked, there's been, and I quote, 'No Industry Vetting Panel ... company has foreign ownership or identified issues with foreign engagement.'

**Mr HILL:** Yes, that's the sentence I just read to you actually. What does it mean? You've had three or four months to think about it.

**Mr Fortune:** The question is fairly explicit, and the answer's as direct as I could provide. If you're asking me about the nuances of the elements of what it constitutes, I don't have those definitions to hand. I'll take that on notice.

**Mr HILL:** Okay. What do you mean by 'identified issues with foreign engagement'? What does that mean? Does it mean directors of the company? Does it mean employees? Does it mean companies that do work for foreign governments? Does it mean officers of the company? Does it mean staff of the company? Which of those? Let's do multiple choice. Pick a quiz.

**Mr Fortune:** I'll take those questions on notice.

**Answer:**

Industry Vetting Panel (IVP) companies are required to be members of the Defence Industry Security Program (DISP). When accrediting a company as a DISP member, Defence conducts a Foreign Ownership, Control and Influence (FOCI) assessment of the company.

Defence requires companies applying for DISP membership to provide a detailed declaration outlining their foreign engagement. This includes: holdings by foreign people, corporations or governments; key position holders' links to foreign people or countries; contracts or other arrangements with foreign people or countries; revenue streams from foreign people, corporations or countries; and any other foreign control or influence indicators.

A FOCI assessment then reviews the company's FOCI declaration against an international FOCI standard, set by the Multi-National Industrial Security Working Group (MISWG):

*'When a foreign interest has the power, direct or indirect, whether or not exercised, and whether or not exercisable, through the ownership of the company under the purview of its National Security Authority/Designated Security Authority, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of that company in a manner which may result in unauthorised access to classified information or adversely affect the performance of classified contracts or may otherwise be contrary to the interests of national security.'*

In undertaking FOCI assessments, a range of open source, commercial and intelligence sources may be reviewed to verify FOCI information supplied and to assess risks. This can include consultation with other national security agencies.

Foreign ownership is assessed, consistent with definitions used by the Foreign Investment Review Board, as:

- A single foreign person, alone or with one or more associates, with a 20 per cent or more holding in a corporation, business or trust.
- A single foreign corporation, alone or with one or more associates, with a 20 per cent or more holding in a corporation, business or trust.
- Two or more foreign persons, with one or more associates, with a total holding of 40 per cent or more in a corporation, business or trust.
- Two or more foreign corporations, with one or more associates, with a total holding of 40 per cent or more in a corporation, business or trust.

Definitions of 'foreign persons' and 'foreign corporations' are taken from the *Foreign Acquisitions and Takeovers Act 1975* and the *Foreign Corporations (Application of Laws) Act 1989* respectively.

The FOCI assessment considers the company, Directors/officers, and key personnel. Industry Vetting Panel staff who are designated as specified personnel (this includes vetting officers as well as any non vetting staff that handle or access any official material) are required to hold an Australian Government security clearance.

DISP members, as part of ongoing reporting requirements, must update their FOCI information whenever there are any changes to their FOCI status.

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### **ANSWER TO QUESTION ON NOTICE**

#### **Department of Defence**

**Topic:** JCPAA - Auditor General's reports 38 and 43 (2017-18) - 12 February 2019 - Q3 -  
Privatisation of Services - Hill

**Question reference number:** 3

**Member:** Hill

**Type of question:** spoken

**Date set by the committee for the return of answer:** 4 March 2019

**Question: Mr HILL:** What we heard last time from the department was that there's been no cost-benefit or assessment done as to the balance between having public servants in the defence department and private contractors done.

You've simply got a staffing cap that you haven't done any assessment on as to whether it would be a more rational thing to have some public servants in the defence department doing this perennial business of security clearances, rather than privatising it to for-profit contractors, with all of the attached security problems, given that the IT system doesn't work. We established that last time. Given that you can't answer any of the questions or explain what the words you have actually put back mean, perhaps you could take on notice the following. What constitutes and what do you mean by identified issues with foreign engagement? Would it be an issue if the shareholders are foreigners? Would it be an issue if the directors are foreigners? Would it be an issue if the staff are foreigners? How many companies have foreign directors? Can you tell us that?

Mr Fortune: I'll take it on notice.

#### **Answer:**

Please refer to Q2 – Foreign Ownership for detail relating to foreign engagement and Foreign Ownership, Control and Influence assessment.

One company providing positive vetting services for Defence has one UK-national, Australian-resident director. No other companies providing positive vetting services list foreign directors.

## **Joint Committee Public Accounts and Audit**

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Auditor General's reports 38 and 43 (2017-18)

### **ANSWER TO QUESTION ON NOTICE**

#### **Department of Defence**

**Topic:** JCPAA - Auditor General's reports 38 and 43 (2017-18) - 12 February 2019 - Q4 -  
Executives of Security Clearance Companies working for foreign governments - Hill

**Question reference number:** 4

**Member:** Hill

**Type of question:** Spoken

**Date set by the committee for the return of answer:** 4 March 2019

**Question:** Mr HILL: So, they don't do work. Could they do work for foreign governments?  
Mr Fortune: I'd have to take it on notice.

**Answer:**

Defence could not prevent Industry Vetting Panel (IVP) companies or their personnel undertaking subsequent work for foreign governments, as there is no specific 'restraint of trade' restriction under the Conditions of the Deed of Standing Offer ('Deed').

However, the Deed has strict security requirements for a panel company to comply with Defence's security policies and processes, including maintaining membership of Defence Industry Security Program (DISP) and complying with the Defence Security Principles Framework (DSPF).

As a DISP member, companies must undertake a Foreign Ownership, Control and Influence (FOCI) assessment and report to Defence any changes to its FOCI status. This includes working for foreign governments.

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ANSWER TO QUESTION ON NOTICE

Department of Defence

**Topic:** JCPAA - Auditor General's reports 38 and 43 (2017-18) - 12 February 2019 - Q5 -  
Mandatory Notification - Hill

**Question reference number:** 5

**Senator/Member:** Mr Hill

**Type of question:** Spoken

**Date set by the committee for the return of answer:** 4 March 2019

**Question:** Mr HILL: As to when a mandatory notification occurs, you said ownership or changes in management or something were examples. Take the example I used before in relation to AIM Screening, one of your contractors, who do the highest, most sensitive level of positive vetting. What would have happened at the time that the department, presumably, was notified that Mr Muzhen Li, who was born in China and lives in Australia, changed his role from director to secretary? Who was notified and what happened then?

Mr Fortune: I'd have to take that specific example on notice.

**Answer:**

AIM Screening does not provide Positive Vetting services for Defence.

AIM Screening (trading as RISQ Group) is an industry vetting panel company and an Australian company. AIM Screening is a current member of the Defence Industry Security Program (DISP). The company is up to date with its Foreign Ownership, Control and Influence (FOCI) reporting obligations under the DISP.

Defence requires companies to submit a FOCI declaration as part of the DISP application process and update their declaration whenever there are any changes to their FOCI status. FOCI declarations are reviewed by Defence Security and Vetting Services (DS&VS).

- A FOCI assessment reviews the company's declaration against an international standard.
- This assessment uses a range of open source, commercial and intelligence sources to verify FOCI information supplied and to assess risks. This can include consultation with other national security agencies.
- DS&VS can also initiate a FOCI review of a DISP member at any time if new information comes to Defence's attention, such as press reporting or stock market announcements.



- The outcome of the FOCI assessment is used to inform DISP access and membership level. It is also provided to project and capability managers to allow them to mitigate or manage any FOCI risks through the contracting process and project management practices.

Defence does not comment on company personnel or individual FOCI assessments.

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#### **Department of Defence**

**Topic:** JCPAA - Auditor General's reports 38 and 43 (2017-18) - 12 February 2019 - Q6 -  
PV Nationals and Waivers - Brodtmann

**Question reference number:** 6

**Member:** Brodtmann

**Type of question:** Spoken

**Date set by the committee for the return of answer:** 4 March 2019

**Question:** Mr Fortune: Just so I understand the question, if I may, so I can clarify your question so I don't fail again to answer it as comprehensively as the committee requires, my understanding of that question is that to hold the security clearance you must be an Australian citizen or operate under an eligibility waiver. So the question is those interviewers operating under citizenship eligibility waiver that are working in the industry vetting panel?

Understood. Thank you. Is that correct? Have I read the question correctly?

Ms BRODTMANN: That's fine, yes. You said before that there are non-nationals working on positive vetting?

Mr Fortune: No. I said that all vetting officers require a security clearance. I didn't say that—Mr HILL: It might be non-nationals that are their managers?

Ms BRODTMANN: And then you mentioned that to get the security clearance you have to be a national or have some sort of waiver?

Mr Fortune: Correct.

Ms BRODTMANN: All right. Can we get an idea of how many people who are working in the positive vetting space are nationals, and how many have had the waiver? And can you tell us what nationality those people are who have had the waiver?

Mr Fortune: Yes.

#### **Answer:**

AGSVA can confirm that all industry vetting officers working on positive vetting (PV) clearances are Australian citizens; there are no officers working under a waiver.