

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates 24-28 February 2014

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Outcome/Program: 1.1 Prime Minister and Cabinet

Topic: Acquisition of Koori Job Ready

Senator: Senator Bridget McKenzie

Question reference number: 140

Type of Question: Written

Date set by the committee for the return of answer: 11 April 2014

Number of pages: 3

Question:

The functions of the ILC are limited to land acquisition and Indigenous land management under section 191C of the Aboriginal and Torres Strait Islander Act 2005.

1. How was the acquisition on 1 October 2003 of Koori Job Ready by its subsidiary, the National Centre of Indigenous Excellence Ltd (NCIE), consistent with section 191 of the Aboriginal and Torres Strait Islander Act 2005?
2. Is there any nexus with land acquisition and Indigenous land management in the purchase of Koori Job Ready?
3. Section 15(1) of the Commonwealth Authorities and Companies Act 1997 (the CAC Act) obliges the ILC to notify the Minister for Indigenous Affairs if it or any of its subsidiaries commence or cease a significant business activity. Did the ILC notify the Minister of the purchase of Koori Job Ready?
4. If not, why not and is the ILC now in breach of the CAC Act?
5. When did the Board of the NCIE Ltd first become aware of the proposal to acquire Koori Job Ready and at which meeting did it make a decision to proceed with the acquisition?
6. Please provide copies of all Board briefing or decision papers that were provided to the NCIE Ltd Board relating to the acquisition of Koori Job Ready.
7. What due diligence did the NCIE Ltd Board carry out and have before it in making its decision to acquire Koori Job Ready?
8. Did NCIE Ltd seek or obtain any written legal advice about the acquisition of Koori Job Ready and did that advice touch on whether the acquisition was within the remit of NCIE Ltd?

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9. Does the section 191G Agreement between the ILC and NCIE Ltd permit such an acquisition?
10. When did the ILC Board first become aware of the proposed acquisition of Koori Job Ready by NCIE Ltd and did NCIE Ltd seek the ILC Board's approval or endorsement of the acquisition. If so, did the ILC Board give such approval of acquisition and at which ILC Board meeting did this occur?
11. It is noted that Mr Rohan Tobler, NCIE General Manager was formerly employed at Koori Job Ready and the Construction Forestry Mining and Energy Union CFMEU. Was he personally involved in advocating for the acquisition of Koori Job Ready?
12. Is Mr Rohan Tobler related to Mr Les Tobler, Manager at Koori Job Network? Was the NCIE or the ILC aware of this connection before the acquisition?
13. Did the acquisition involve any dealings (direct or indirect) between NCIE Ltd and the Construction Forestry Mining and Energy Union (CFMEU) or any branch thereof?
14. Has the NCIE and the ILC any liabilities relating to the tragic death of a 23 year old Indigenous man on 9 January 2013 at the Barangaroo construction site in Sydney?
15. It appears this young man had completed his pre-employment training at Koori Job Ready. Would Koori Job Ready be able to demonstrate that when he was placed in work, he was absolutely fit for work mentally, physically and skill wise?
16. Did the ILC Audit and Risk Committee review the Koori Job Ready acquisition for legislative compliance and due diligence risks?
17. Can copies of any contract of acquisition be provided?

Answer:

1. The National Centre of Indigenous Excellence Ltd (NCIE) did not acquire the Koori Job Ready Program. It was novated from the NSW Government.
- 2 The Koori Job Ready Program is managed from premises in George Street, Redfern owned by the Indigenous Land Corporation (ILC) and premises in Wilson Street, Redfern held by NCIE under a licence agreement from the NSW Government. These arrangements are consistent with the functions of the ILC under the *Aboriginal and Torres Strait Islander Act 2005*.
3. The novation of the Program is not a 'significant' business or business activity. All funding for the Program is via grant funding from state and Commonwealth agencies. The administration of the Commonwealth funding of this program falls

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under the portfolio department of the Minister for Indigenous Affairs. Accordingly, there was no requirement to notify the Minister under section 15 of the *Commonwealth Authorities and Companies Act 1997*.

4. See answer to Question 3 above.

5. The NCIE Board first became aware of the possibility of the novation of the Koori Job Ready Program at its meeting on 1 November 2012. The NCIE Board agreed to take on the management of the Koori Job Ready Program at its 25 September 2013 meeting.

6. The papers submitted to the NCIE Board at its 23 September 2013 meeting contain commercially sensitive information.

7. See answer to PM108.

8. No. As mentioned above, the novation of the Koori Job Ready Program did not involve an acquisition.

9. See answer to Question 8. The Section 191G Agreement between the ILC and NCIE allows NCIE to undertake the activities involved in the Koori Job Ready Program.

10. The ILC Board was first advised of the proposal on 28 August 2013 when the NCIE Board minutes of its 24 June 2013 meeting were included in the ILC Board papers for noting. The NCIE Board did not seek the ILC Board's approval or endorsement.

11. No.

12. Mr Les Tobler is not a manager at the Koori Job Ready Program. Rohan Tobler is Les Tobler's son. The NCIE was aware of this long before the novation of the Program.

13. No. As noted above, no acquisition took place.

14. No.

15. No.

16. No. It was not an acquisition.

17. No acquisition contract is available as no acquisition occurred.