

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Estimates, November 2004

Question: Supp 8

Topic: SCT - Procurement

Hansard Page: Written

Senator Murray asked:

1. When did the Department last update its procurement policy documentation?
2. What mechanisms does the Department have in place to ensure its procurement guidelines reflect current policy in relation to government contracting?
3. Do the Department's current procurement guidelines refer to all of the following accountability mechanisms:
 - The Senate order for departmental and agency contracts;
 - The Department of Finance and Administration's February 2003 *Guidance on Confidentiality of Contractors' Commercial Information*; and
 - The Commonwealth Procurement Guidelines (CPGs) ?
4. Do the Department's tender documentation and contract templates include the following elements:
 - a statement outlining the various Commonwealth accountability requirements;
 - a consistent definition of confidential information across all templates;
 - a provision for the inclusion of specific reasons justifying why a tenderer may wish to protect certain information in the contract if it awarded;
 - a section that outlines the obligations of confidentiality after the contract has been awarded;
 - a more detailed outline, with the general non-disclosure clauses, of the exceptions to confidentiality obligations for Commonwealth contracts; and
 - the model contract clauses, given in DOFA's February 2003 *Guidance on Confidentiality of Contractor's Commercial Information* ?
5. At page 51 of ANAO Audit Report No.10 2004-2005, *The Senate Order for Departmental and Agency Contracts (Calendar Year 2003 Compliance)*, the ANAO has concluded that all FMA agencies would benefit from implementation of contract training courses, or a review of current courses, to ensure that the Senate order

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requirements are adequately covered and that procurement staff receive relevant DOFA guidance.

What training does the Department currently have in place for procurement staff?

6. Does this training cover the requirements of the Senate order for departmental and agency contracts and refer to DOFA's February 2003 *Guidance on Confidentiality of Contractor's Commercial Information*?

Answer:

1. The Tribunal adheres to the Australian Securities and Investments Commission (ASIC) 'Contracts and Procurement Manual' as a consequence of the statutory relationship established between ASIC and the Tribunal by sub-section 62(2) of the Superannuation (Resolution of Complaints) Act 1993. The ASIC Contracts and Procurement Manual Version 2 is dated 23 February 2004 and the last update - Version 3 was issued on 16 December 2004.
2. Reference is made to the ASIC IntraNet policy site to establish the current guidelines and if there is any concern about the application of the guidelines the matter is raised with the relevant officer-in-charge at the Property & Contracts Section of ASIC.
3. The Tribunal has been informed by ASIC that the Senate order for departmental and agency contracts does not apply to ASIC as it is a CAC Act agency. The Manual contains reference to the other accountability mechanisms. Responsibility for the content of the Manual is solely ASIC's and the Tribunal has not input on the matter.
4. The Tribunal has been informed by ASIC that it does not have tender or contract templates, but does have preferred legal clauses in its Manual which one undertaking the procurement function must refer to and comply with. Legal review is required before tenders are finalised and of draft contracts to ensure compliance of the legal clauses.
5. The Tribunal depends on ASIC for advice and guidance on procurement issues. Tribunal staff do not receive training in procurement activities.
6. Not applicable.