

## QUESTION TAKEN ON NOTICE

**BUDGET ESTIMATES HEARING: 22 May 2006**

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

### **(220) Output 1.3: Enforcement of Immigration Law**

Senator Ludwig asked:

Detention services contract (ANAO Report No 32 2005-2006)

1. With regard to the two versions of minutes from the 17 September 2002 meeting of the tender evaluation team, where one set of minutes didn't include the names of the tenderers:
  - a. Was the probity auditor shown the version of the minutes in which the tenderers were named? If not, why not?
  - b. Was the amendment of the minutes endorsed by the tender evaluation team?
    - i. If not, why not?
    - ii. If so, provide a copy of the minutes from the meeting which endorsed the amendment.
  - c. Was the Department Secretary aware that the minutes were to be amended and the probity auditor shown the amended version?
  - d. Were there any meetings of the evaluation team/steering committee held between 15 May and 31 August 2003? If so –
    - i. Provide the minutes of those meetings.
    - ii. If those minutes are unavailable, could the department explain why?
2. Did the departmental steering committee examining the tender process make any criticisms of the decision-making framework? Did the committee recommend any changes to the framework?
3. With regard to the final report of the evaluation forwarded to the Secretary of the Department on 29 November 2002, recommending that he approve GSL as the preferred tenderer on the basis of value for money. The ANAO later found that the value for money calculation was incorrect and that the Secretary had been advised of the wrong indicator:
  - i. Does the department view the information used by the Secretary to approve GSL as the preferred tenderer as misleading?
  - ii. Considering the ANAO findings, was it inappropriate for GSL to have been approved as the preferred tenderer on 22 December 2002?
  - iii. Had the Department made the approval with full knowledge of the ANAO's findings, would an alternative tenderer have been successful?

*Answer:*

(1)(a) The probity auditor was not provided with the draft version of the minutes in which the tenderers were named, however, this draft version was later placed on the relevant file.

(b) Yes, the amendment of the minutes was endorsed by the Steering Committee (SC)/Tender evaluation team (TET).

In preparing the minutes from the meeting the Tender Support Team inserted the tenderer's identities, presumably to clarify aspects of the discussion which had progressed in anonymity.

When this draft version of the minutes was presented to the SC at the following meeting for endorsement, the SC demanded that the tenderer's names be removed as it was inappropriate and inaccurate to show the names when the discussion of the proposed tenderers was anonymous. As a result the final version of the minutes did not reveal the tenderer's identities.

(i) See above.

(ii) See above and attachment.

(c) Decisions regarding amendments to meeting minutes were made by the SC and those present at SC meetings. The Secretary was not a member of the SC and did not attend SC meetings; therefore, it is unlikely he was involved in any discussions regarding amendments to be made to these minutes.

It is not known whether the Secretary was advised that the probity auditor was shown only the final version of the minutes.

(d) There were no formal SC meetings held between 15 May and 21 August 2003.

(i) See above.

(ii) As stated above, no formal SC meetings were held between 15 May and 21 August 2003. Only formal SC meetings were minuted. Therefore, it is not that the minutes are unavailable; rather they were never created because formal, minuted meetings were not convened during this period.

The role of the SC was not only to guide and endorse decision making throughout the evaluation phase of the tender process, but to provide oversight if required during the negotiation phase of the tender process.

The negotiation phase of the tender process began in January 2003. The chief negotiator was a member of the SC. His role was to conduct negotiations with the preferred tenderer, and to ensure that the value for money outcome determined through the evaluation process was not undermined by contract negotiations. During the negotiation process he discussed specific issues with his SC colleagues bearing in mind that the SC was made up of very senior departmental officers who had frequent interaction with each other as part of their day to day business. It was considered that this level of discussion satisfied the SC's oversight role for the negotiation process.

(2) No, the SC did not make any criticisms of the decision-making framework. The SC implemented changes as set out in paragraph 3.18 of Audit Report No. 32.

Frameworks were developed to guide particular phases of the tender process, for example, the tender evaluation phase. The SC became the entity which developed the framework which was a live and developing process.

(3)(i) As the ANAO acknowledges in paragraph 4.38 of Audit Report No. 32, the corrected value for money index did not alter GSL's position as first ranked tenderer (i.e. tenderer who offered best value for money). The correction merely reduced the difference between GSL and the second ranked tenderer ACM.

(ii) The ANAO's findings with regard to the error in the final evaluation report do not alter GSL's position as first ranked tenderer. Therefore it was not inappropriate to select GSL as the preferred tenderer.

(iii) As stated above, the ANAO's findings do not alter the outcome of the value for money assessment. Despite the error identified by the ANAO, at the completion of the tender evaluation process GSL would still have offered the best value for money for the Detention Services Contract, albeit by a narrower margin.