

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S PORTFOLIO

**Question No. 88**

**Senator Murray asked the following question at the hearing on 31 October 2005:**

- a) What guidance is provided to staff with responsibilities for contract negotiations specifically about the requirements of the Senate Order? If relevant guidance is not provided, please explain why this is the case.
- b) What training and awareness sessions are provided, either in-house or through other training providers (eg. DOFA, APS Commission or private firms) in respect of the Order? Please provide a list of the dates, the identity of the training providers and the content of the training that staff attended in 2005. If training and awareness sessions are not provided, please explain why this is the case.

**The answer to the honourable senator's question is as follows:**

**Attorney-General's Department**

- a) Guidance is provided to staff about the requirements of the Senate Order, in the Department's intranet website. The website includes templates for tenders and contracts which provide guidance to negotiating officials on the Senate Order. The website guidance also provides links to the Department of Finance and Administration's *"Guidance on Confidentiality of Contractors' Commercial Information"* and *"Guidance on the Listing of Contract Details on the Internet (Meeting the Senate Order on Departmental and Agency Contracts)."* In addition, the Department provides procurement advice centrally on the Senate Order.
- b) No training or awareness sessions have been provided specifically on the requirements of the Senate Order within the Department during 2005. The Department considered that resources were better directed towards maintaining the guidance and templates which are used by procuring officials and providing a central advisory service to procurers. However, accountability and transparency issues, including the Order, are often agenda items at seminars or meetings involving procurement officials or financial officers within the Department or portfolio, for instance the Attorney-General's Portfolio Agency Information Session of 15 March 2005.

**Administrative Appeals Tribunal (AAT)**

- a) As a small agency only a limited number of managers are involved in high level procurement and they are aware of the requirements. Guidance is supplied by the Finance Section.
- b) General finance training will be provided in early 2006 which will include an awareness session on confidentiality in contracts. This is meant to inform staff of the basic tenets and highlight the importance of seeking advice on specific purchases or tenders from the Finance Section. If training sessions by external providers were available in Sydney or Brisbane Tribunal staff would attend.

**Australian Crime Commission (ACC)**

- a) Staff in the ACC Contracts and Procurement Section receive appropriate instruction on the order and use of contract templates which include appropriate confidentiality clauses.

- b) No additional training is provided beyond instruction on obligations under the Order.

### **Australian Customs Service (ACS)**

- a) Customs operates with a devolved procurement and contracting environment. All Customs staff involved with contract negotiations have access to the Department of Finance and Administration's Financial Management Guidance No. 8 *Guidance on the Listing of Contract Details on the Internet (Meeting the Senate Order on Departmental and Agency Contracts)* January 2004 and Financial Management Guidance No. 3 *Guidance on Confidentiality of Contractor's Commercial Information* February 2003 through the Customs intranet.

Commercial Services Group of Financial Services Division (Central Office), provides guidance and advice on the Senate Order to all Customs staff involved with contract negotiations. Commercial Services Group comprises of procurement/contract management specialists cognisant of the requirements of the Senate Order who ensure its requirements are met.

- b) Commercial Services Group of Financial Services Division (Central Office) provides training and awareness sessions to all Customs staff involved with contract negotiations in Central Office and in all regions throughout the year and on an as required basis. In 2005 training was provided as outlined in the table below:

<b>Region</b>	<b>Date</b>
Melbourne	7 April 2005
Queensland	12 September 2005
New South Wales	13 September 2005
Victoria	14 September 2005
South Australia	15 September 2005
Western Australia	16 September 2005
Australian Capital Territory	21-22 November 2005

These sessions are delivered by the Director, Commercial Services Group (Executive Level 2 equivalent) and Manager, National Procurement and Contracting Section (Executive Level 1 equivalent). The sessions cover the content of the Senate Order including the correct identification of contracts for the purposes of the policy, the type of confidential information that can be accepted as confidential and the test to apply when determining whether information is confidential or not.

The content of the training is taken directly from Financial Management Guidance No. 8 *Guidance on the Listing of Contract Details on the Internet (Meeting the Senate Order on Departmental and Agency Contracts)* – January 2004 published by the Department of Finance and Administration.

### **Australian Federal Police (AFP)**

- a) Whilst procurement is devolved to line managers, Senate Order reporting is coordinated centrally within AFP National Procurement and Contracts (NPC). The AFP has issued guidance material on Senate Order reporting so that business areas consult with NPC and AFP Legal for advice on such matters.
- b) The majority of NPC team members and AFP Legal received training in relation to the Senate Order via seminars provided by private firms, the Department of Finance and Administration

(DoFA), and information contained within publications from DoFA, and from reports completed by the (Australian National Audit Office (ANAO)). The specific dates of attendance have not been centrally recorded. Additionally, the close working relationship between NPC and AFP Legal provides the in-house component of ensuring that the AFP is up-to-date regarding the requirements of the Order. NPC consults regularly with the ANAO prior to posting its listing to ensure that it meets all the requirements of the Senate Order.

Furthermore, NPC and AFP Learning and Development is in the process of developing a comprehensive procurement and contract management training program that will include advising staff of the requirements of the Senate Order. It is envisaged this program will be finalised by early to mid 2006.

### **Australian Security Intelligence Organisation (ASIO)**

a) ASIO provides guidance to staff with responsibilities for contract negotiations on the Chief Executive's Instructions and compliance with the Commonwealth Procurement Guidelines which cover the requirements of the Senate Order.

b) In 2005, ASIO staff attended contracts training provided by the Australian Public Service Commission. The APSC training covers the requirements of the Senate Order. ASIO also provides in-house awareness sessions on its procurement reporting obligations conducted by the Organisation's contracts adviser.

### **Australian Transaction Reports and Analysis Centre (AUSTRAC)**

a) Staff are provided with Senate Order specific procurement guidance material developed by the Department of Finance and Administration (DoFA). The guidance material covers the listing of contract details on the internet as well as confidentiality of contractors' commercial information. The Commonwealth Procurement Guidelines are also provided to staff with responsibilities for contract negotiations.

b) Training and awareness sessions attended by AUSTRAC staff in 2005 were:

<b>Date</b>	<b>Training Provider</b>	<b>Content of training</b>
16/11/05	DoFA	Compliance with the Senate Order - Publishing contract details
7/4/05	DoFA	Reporting requirements under the Commonwealth Procurement Guidelines
15/3/05	AGD/DoFA	Procurement Framework Overview
22/2/05	AGS	Commonwealth Procurement Policy and Practice

### **CrimTrac**

a) CrimTrac staff are able to seek the guidance of the Strategic Support and Communication (SS&C) Section in completing contracts. To ensure that contracts meet the requirements of the Senate Order, all contracts are required to be vetted and registered by SS&C, which is the section of CrimTrac responsible for publishing the Senate Contract List for the agency.

b) The staff member who is primarily responsible for the preparation of CrimTrac's Senate Order List has received on the job training for this role. They also have access to comprehensive procedures which take into account the amendments that took effect from 1 January 2005.

### **Commonwealth Director of Public Prosecutions (CDPP)**

a) i) Copies of the Commonwealth Procurement Guidelines and other procurement guidance material issued by Department of Finance and Administration, including FMG 8, "Guidance on the Listing of Contract Details on the Internet (Meeting the Senate Order on Departmental and Agency Contracts)" are available on our intranet site for all staff to refer to.

ii) A member of staff is presently completing training in Certificate IV Government (Procurement and Contracting) and is available to provide advice.

b) The requirements of the Senate Order were included in Financial Framework Training provided in all CDPP offices around Australia in 2004-2005. The trainer was the National Finance Manager.

### **Family Court of Australia**

a) Internal procedural guidance for Family Court of Australia (the Court) staff, involved in contracting and procurement activities, states the requirement to adhere to the policy of reporting all contracts entered into over \$100,000 and refers to the DoFA guidance. Additionally, tender documentation reflects the reporting requirements and provides the Internet address to the Finance website where further information can be found.

b) The Court has centralised the administrative support functions such as procurement and contracting and ensures that staff providing the procurement support function are familiarised with the reporting requirements. Internal policy requires all tendering and procurement activities to be actioned and reported through the Contracts and Property section. Staff with the core function of procurement/contracting processes utilise the guidance from DoFA and provide advice/guidance to Court staff on the requirements of Senate Order 192. The inclusion of the reporting requirements in the Court's tender documentation has reduced the uncertainty with the confidentiality criteria for Industry. At this time all Court contracts with a value of \$100,000 or more have been reported/published.

### **Family Law Council**

The Family Law Council does not separately contract or purchase services. It is an advisory body that operates within the Department.

### **Office of Parliamentary Counsel (OPC)**

No additional guidance or training and awareness sessions are provided to the Office of Parliamentary Counsel (OPC) staff. OPC is a small agency with only a very small number of contracts which are negotiated by members of the Senior Management Team. Guidance provided in ANAO and DoFA publications are adequate.

### **Office of the Privacy Commissioner**

a) The Office operates under the current *Commonwealth Procurement Guidelines and Policy Framework*.

As allowed under the Policy Framework, the processes and guidelines internally developed by the Office reflect the limited size and scope of the procurement activities carried out by the organisation. Over the last three reporting periods the Office has nominated only one contract that fell within the scope of the Order. This reported item concerned an ongoing contract for the lease of office accommodation.

Given the nature of the Office's functions and the size and scope of its procurement activities, it has ensured that it has access to appropriate procurement advice relevant to the Senate Order through a service agreement for whole of corporate support with HREOC which is collocated with OPC.

b) The Office does not provide any training or awareness sessions for staff concerning the relevant Senate Order. This training has not been provided by management because procurement exercises of the quantum relevant to the order are infrequent. The Office relies on a corporate support agreement with HREOC for these services. Under the agreement HREOC carries out procurement activities on behalf of the Office and advises the Office on requirements for compliance with the procurement and reporting requirements including those arising under the Senate Order.