

Department of Finance

Response to Question on Notice

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

Inquiry into the implications of the COVID-19 pandemic for Australia's foreign affairs, defence and trade

Hearing of Tuesday, 25 August 2020

Question on Notice 1 (Proof Hansard page 4)

Mr Jaggers: ... We do update the Commonwealth Procurement Rules regularly, but we think we've got the balance right. We have a centre of procurement excellence within the Department of Finance that we'll work with. We will continue to work with Defence but we will also work with other entities around their understanding of this. We have a community of practice around the procurement elements of each government agency, and we work with those to understand that guidance material.

So we think that we're putting in place something that will work. There are always options for the rules to be amended further, but we think that we've got the balance right in terms of the broad principle and in the guidance material.

...

Ms SWANSON: You said that the rules are updated regularly. What does 'regularly' mean? What's the definition of 'regularly'? Is that an ongoing process? Is it incremental?

Mr Jaggers: We usually update the rules roughly annually. I'd have to take on notice how regularly. Sometimes it can be more often and sometimes a little bit less. We last updated the current rules on 20 April 2019. The finance minister would have issued the rules at that time. We are in the process of preparing further updates. At the moment we release any updates to the rules; provide support, training and further guidance material in respect of those changes to the rules; highlight the changes; and work through those. Then we get feedback from entities and from committees like yours. We consider ANAO audits and reports on agencies' and entities' compliance with the rules. We also will amend rules from time to time to comply with or to acknowledge free trade agreements that have been entered into. We would usually start working on any updates not too long after the last rules were updated. We try not to amend them all the time, so we wouldn't amend for one minor update. We'd hold that off unless there was some real reason why we needed to do it urgently. We'd hold it off until we had a suite of updates and then we would do that. I think it's about annually, but I'll come back on notice if that's not the case.

Response

The Commonwealth Procurement Rules are updated on an as needed basis. The last four updates to the Commonwealth Procurement Rules were made on:

- 20 April 2019 (current version)
- 1 January 2019
- 1 January 2018
- 1 March 2017

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Question on Notice 2 (Proof Hansard page 5)

Senator FIERRAVANTI-WELLS: Alright. Therefore, can I now come to my more immediate question, because I've taken a bit of an interest in relation to procurement. You said that each agency is accountable; therefore, for example, I understand that Finance is procuring its own PPE through COS, which is your whole-of - government stationery provider. I've been engaging with the Department of Finance in relation to the PPE that's being provided to us, particularly the masks, because I was interested to know why the material that we're getting is all made in China. I want to know that, given the uptake, in terms of the masks that are being produced here in Australia. I've now had two types of masks provided to me from Finance. The first one, a ZEN mask, came from COS, your government stationer. Could you take me through the practicalities of how COS does their work, as a government stationery provider, and why it is that all, or the majority, of the face masks that are being stocked by COS come from China.

Mr Danks: As you said, COS is part of the whole-of-government stationery-and-office-supplies arrangement, so any entity, including Finance, can source their PPE equipment from there. It's a non-mandatory item in the stationery and other office supply arrangement. That means that agencies can select it from COS or from the marketplace directly. In relation to the question you're asking around the mask that you're receiving, our area of Finance is responsible for procurement policy matters. We'd have to take it on notice for our ministerial colleagues.

Senator FIERRAVANTI-WELLS: Given what you said before about the process, I'd like to know, if you could take it on notice, every step of the way. I tried to get this out of the Department of Finance before, but all I got was, 'These are the countries where they come from'—I didn't get much more than that—and, 'If you're not happy, go out and buy your own, and then we'll refund you.' I'd like to understand why the whole-of-government stationery provider is only making available stock predominantly from China and not making available stock that's made here in Australia. I'd like to understand the process. How did we get to a point where a whole-of- government stationery provider is only making available face masks that have been made in China? I gather that one is made in Bangladesh. Could you please take that on notice. I'd like to understand the process as to how we got to the point where we're just being given face masks from China. I notice that it is the same with the parliamentary ones that have just recently been given to us. We've got people out there making masks, yet we're not receiving them, and that's because our provider is giving us stuff made in China.

Mr Jagers: Yes, we've got that question. I understand you want to understand the process of how COS is selecting, for instance, masks; what agencies are doing; and what Finance is specifically doing. I'm sorry, I can't help you directly with [inaudible] run that procurement, but we will talk to the—

Senator FIERRAVANTI-WELLS: I'm asking this in the context of a time when we're looking at reducing our dependency on China and increasing our self-reliance for the very reasons that the chair said in his opening question to you. Surely we must be looking at a better procurement policy by the Australian government that is favouring our own national interest—a process where Australian manufacturing is favoured rather than all of this stuff out of China. That's a pretty logical question for ordinary Australians to be asking, isn't it?

...

Mr Jagers: COS is a provider to Finance. It was selected through our process. In terms of the actual product selection, we'll come back to you with those answers. I talked to the committee a little earlier about the broader economic benefits to the Australian economy and the guidance material we've provided there. In this COVID period we've also offered support and help to a number of agencies, including the department of industry's procurement around PPE and assisting them in getting Australian industry suppliers as well. We have provided some input into that, but your question is about why the results look the way they do. We'll take that on notice.

Response

Complete Office Supplies (COS) is a supplier under the Whole of Australian Government Stationery and Office Supplies (SOS) arrangement. The contract with COS does not specify a requirement regarding the origin of goods, in accordance with the Commonwealth Procurement Rules' requirement to be non-discriminatory (including the origin of goods and services).

Masks are a non-mandatory item under the SOS arrangement, meaning entities can choose to purchase goods from other sources, noting that entities are accountable for their purchasing decisions.

COVID-19 has created a worldwide demand for masks, including within Australia. To meet demand volumes and timeframes, COS was required to quickly source masks, having regard to availability, acceptable terms, quality and price. COS continues to monitor the Australian market, assessing price, quality, quantity, availability and terms and conditions.

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Question on Notice 3 (Proof Hansard pages 5 and 6)

CHAIR: Following on from that question, you said in your submission and in your evidence that you've got the framework of the CPRs and then the accountable authorities can have their own instructions within departments. Where you do get a cross-portfolio purchase—again, I'll use face masks and, particularly, respirators where, for example, DFAT needs them not only for their overseas posts but for aid projects; Defence needs them for their own purposes, in their hospitals and for civil aid to the community in disaster relief type work; Health needs them for the national stockpile; and potentially even state governments need them for things. Where there are a number of taxpayer funded entities and where we've identified as a national resilience issue the ability to produce, then scale up and then produce at scale something like surgical and N95 masks or P2 and P3 respirators, is there any way that your current framework could be made easier for those accountable authorities to have a coordinated target or procurement policy and process that would make it easier to say, 'Yes, we're still going to get value for money but we will make sure that collectively we generate an offtake agreement to keep these industry sectors sustainable at a level that not only helps them to innovate and develop but also, importantly, enables them to scale up if we have another pandemic'?

Mr Jagers: In relation to COS, the entity that Finance has engaged, I'll just clarify that it's not mandatory that agencies use that company. We offer COS as a service provider to other agencies, but they could also use a different service provider. What has happened in relation to PPE is, from the very start of COVID and the impacts of that, Australian government agencies have been meeting and working together. There's a chief operating officer network that had been established prior to COVID, but since COVID it has been meeting extremely regularly. The Department of Finance has played a prominent role on that committee. One of the issues that that committee has worked on very closely is PPE and sourcing PPE that meets the extremely high needs of Australian government entities and agencies, particularly a number of frontline service providers. There's been quite a lot of discussion and coordination around ensuring that the PPE that is required has been able to be achieved.

You gave a question on Australian industry capability. What we've been working through, through this period of time, is how we respond to those peak challenges for products. Whilst every entity is an accountable authority on their own, government has been joined up in a way that maybe has never been seen before, in terms of the way that entities and agencies are working together through their chief operating officers to secure what's needed. I guess that's the comment. Could we make further amendments to the Procurement Rules? Potentially. We might need to take on notice the specifics of that question.

CHAIR: If you could take that on notice, please do. I hear you, and we've had evidence from Health, the department of industry and other people about the work they have done to overcome the shortfalls in the supply chain and make sure there are sufficient masks available. We commend everyone for the work they've done there. When we've asked the question about if those investments in Australian capability will be sustainable moving forward or if we will just go back to the cheapest product on the market, which is often coming from overseas, most people gaze at their shoes or mention Commonwealth Procurement Rules and barriers to them supporting Australian industry. That's why we are keen to prosecute this issue. PPE is a good example, but there are other areas where the government—through the various processes that are underway at the moment, whether that be within industry or Health or other departments—may identify critical enablers for national resilience. Where they are identified, we need to know that we have ways to make sure that the Commonwealth procurement either generates or sustains Australian industrial capability to produce what Australia needs. If you can take that on notice, that would be very useful.

Mr Jaggers: I will take that on notice.

Response

The Commonwealth Procurement Rules require non-discriminatory and competitive processes where potential suppliers are not discriminated against due to their size, degree of foreign affiliation or ownership, location, or the origin of their goods and services. Mandating that only Australian companies receive work, or that the goods must come from Australia, would be contrary to this.

The Commonwealth Procurement Rules also require officials undertaking procurements valued above \$4 million, or \$7.5 million for construction services (paragraphs 4.7 and 4.8), to consider the economic benefit of a procurement to the Australian economy in the context of determining value for money. There are various ways that a potential supplier can provide an economic benefit to the Australian economy, for example developing Australian industry capabilities or industrial capacity.

However, the Commonwealth Procurement Rules have flexibility to respond in extreme circumstances. An accountable authority can put in place measures necessary for the maintenance or restoration of international peace and security, to protect human health, for the protection of essential security interests (paragraph 2.6). In practice this provides greater flexibility for entities where there is an urgent need to procure goods or services such as Personal Protective Equipment, allowing a procuring official to set aside certain parts (or all) of the Commonwealth Procurement Rules in these purchasing decisions.