

Senate Standing Committee on Foreign Affairs, Defence and Trade

Parliamentary inquiry – Inquiry into the impact of Defence training activities and facilities on rural and regional communities

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: SSCFADT - Impact of Defence training activities and facilities on rural and regional communities – 21 March – Q4 - Gallacher

Question reference number: 04

Senator: Alex Gallacher

Type of question: 21 March 2018, page 6

Date set by the committee for the return of answer: 13 April 2018

Question:

CHAIR: Okay. I know we're talking at cross-purposes if we accept that Hilliers's bid in 2015 was under a different set of circumstances, but I think these points are indicative of the types of questions we've heard all around the country. There's another point here where a business submitted a quote for a work package and was subsequently not contacted by the EPC. When it tried to contact the EPC for feedback, communications were not returned. And a perception there from local suppliers is that that might be a questionable trade practice, like: 'You've taken my quote. You haven't acknowledged it. I've tried to ring you and seek some feedback, and there's been no communication whatsoever.' People think that's not a good look, to put it frankly. We can put that to you specifically. We could probably even get the name of the business if you want it.

Brig. Galton: If I could get who it was—because it's certainly not a practice that we want to see at all. In fact, our tier 1 contractors are strongly encouraged, and it is best practice for them, to make sure that feedback is given to tenderers that are unsuccessful. The unsuccessful tenderers shouldn't even need to ask for that. That's something that will be given to them if they wish to have it. If you have the specifics there, I'll certainly follow it up.

Answer:

Although the specific business referred to in this question has not been identified, Defence offers the following regarding communications between contractors and sub-contractors, and Defence's standard processes for providing feedback to unsuccessful tenderers (as per the committee's amended request for information dated 17 April 2018):

Defence applies the Commonwealth Procurement Rules (CPRs) when debriefing unsuccessful prime contractors. The purpose of the debrief is to outline the strengths and weaknesses of the tenderer's proposal in order for them to understand why they were unsuccessful and how they could improve future proposals. The debriefs include the following information:

- a. the name and price of the winning tenderer;
- b. the technical ranking achieved by the tenderer in the tender board assessment; and
- c. suggestions on areas of the proposal that could have been strengthened (i.e. greater detail on previous relevant project experience may have enabled a higher score in the category of 'past performance').

Prime contractors engaged under a Managing Contractor Contract are required to follow the principles of the CPRs, hence the same methodology for unsuccessful tenderer debriefs must be followed by the primes.

Under the Traditional Head Contract there is currently no contractual requirement for the Head Contractor to follow the principles of the CPRs, hence the means by which they communicate with unsuccessful tenderers is their decision. This was the case for the Cultana Redevelopment Stage 1 project, however, St Hilliers did conduct unsuccessful tenderer debriefs.

A lesson learned from the introduction of the Local Industry Capability Plan is that a special condition of contract will need to be introduced to Defence's Traditional Head Contract to ensure that primes follow guidance in the CPRs on unsuccessful tenderer debriefs. Inclusion of this special condition will be enacted immediately.