

# **Senate Environment, Communications, Information Technology & the Arts Legislation**

## **Committee**

### **ANSWERS TO QUESTIONS ON NOTICE**

#### **Department of Communications, Information Technology & the Arts**

Supplementary Budget Estimates 2000-2001, (23, 24, 30/11/00)

#### **QUESTION NO. 1**

Output: 1.1 and 1.2 Australian Broadcasting Corporation

Senator Bishop (Hansard page 194) asked the following Question-on-Notice:

Where is the Government search up to for an alternate provider of Australia Television? Where are we at on that? ... Can you take on notice who are the applicants, when is the process going to be concluded, what guidelines the government is going to apply in making its decision, when will the decision be made and when will the licence be let? ... Do you have any idea of the planning for when the service will go to air? ... What is the cause of the delay in finding an alternate service provider? ... Is [the process] on schedule?

#### **Answer:**

It is not appropriate, given the commercial sensitivity of such information, to place on the public record the names of those companies and or organisations that have put forward proposals for an Australian television service to the Asia-Pacific region.

The evaluation criteria for the proposal are included in the Request for Proposal document. That document is attached.

The Government is considering the proposals. It has not indicated a schedule for evaluation of the proposals or considered a schedule for the establishment of a service. It will inform applicants of the outcome of the evaluation as soon as possible.

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Attachment

## REQUESTS FOR PROPOSALS

### AUSTRALIAN TELEVISION SERVICE TO THE ASIA PACIFIC

#### INTRODUCTION

1. The Australian Government is seeking proposals from individuals, alliances or partnerships for the establishment of an Australian television service to the Asia-Pacific region.
2. It is expected that the service would broadly support Australia's national interests in the Asia-Pacific region by:
  - a. providing a credible, reliable and independent voice in the region
  - b. presenting, through its news, information and documentary programs, a "window" on Australia and Australian perspectives on the world
  - c. projecting accurate images and perceptions of Australia
  - d. promoting Australia's engagement in the Asia-Pacific region by fostering public understanding of Australia, its people and its strategic and economic interests
  - e. raising awareness in the region of Australia's economic and trade capabilities, including in the education and tourism industries
  - f. providing consular and other information to Australians living in the region, particularly in times of crisis.

#### REQUIREMENTS

3. Potential providers are required to submit a proposal, detailing how they would deliver the following key elements:
  - a. a programming mix which has a strong focus on news and information and which projects an accurate and broadly representative image of Australia and its way of life to the region

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- b. a transmission/distribution system to deliver this programming to key audiences in North and South East Asia, India and the South West Pacific
  - : via direct delivery by satellite (to hotel and other institutions)
  - : by retransmission through local pay TV, free-to-air and other "retail" outlets
- c. an effective promotional strategy to maximise audiences/distribution outlets
- d. future plans for the possible delivery of audiovisual services by broadband/online links/the Internet

### **PROGRAMMING CONTENT**

- 4. A successful programming strategy will be a significant factor in the success of the service, This RFP does not "prescribe" or seek to describe in detail preconceived programming expectations. However, in general, it would be expected that a significant proportion of the service should comprise regionally-focused news, information and documentary programming (but clearly not to the exclusion of lifestyle and entertainment programs).

### **OVERSIGHT AND MANAGEMENT**

- 5. The Government recognises that to be successful, the service must have a high level of credibility and that it is not seen as being a "government" voice. There is a clear need to ensure that the service has editorial independence while at the same time ensuring that Australia's broader, longer-term interests are served by presenting accurately Australia and its aspirations in the region.
- 6. It is envisaged that contractual arrangements would include a charter setting out broad programming principles and the scope and purpose of the service. Compliance with this element of the contract would be subject to regular review. However, suppliers are encouraged to put forward any alternative ways in which the appropriate balance between editorial independence and the Government's broader objectives could be achieved.

### **INDUSTRY BRIEFING**

- 7. Potential service providers must attend an industry briefing as a pre-condition for lodging a proposal. All parties that are considering lodging a proposal are requested to register their interest with Mr Phillip Allars, Director, Special Projects, Images of Australia Branch, Public Diplomacy Division, Department of Foreign Affairs and Trade, R.G Casey Building, John McEwen Crescent, Barton ACT (Telephone 02 6261 3269, Facsimile 02 6261

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2996, Email phillip.allars@dfat.gov.au) so that they can be advised of the details of the timing and location of the briefing, to be arranged on or about 24 August 2000.

#### **FUNDING**

8. The service should seek to attain commercial support. In addition, in recognition of the national interest aspects of the broadcasting service, the Government will provide funding assistance for programming and transmission. The level of possible funding and other relevant issues will be discussed at the industry briefing.

#### **ASSESSMENT CRITERIA**

9. The overriding criteria for assessing proposals would be the capacity to achieve the broad objectives outlined in paragraph 2 above. Other specific considerations (each of which would have equal weighting) would include:
  - financial and technological capacity to deliver for the full contract term
  - capacity to reach target audiences with relevant, quality programming
  - viable business plan, including proposals for sponsorship and advertising
  - the ability to leverage Government funding into a potentially commercially viable service should be a consideration
  - likely cost of the service to the Government
  - identifiable Australian dimension of proposed provider
  - future online/broadband capabilities
  - innovative programming ideas
  - promotional expertise/track record

#### **CONDITIONS OF REQUEST FOR PROPOSAL**

10. All information, whether written, oral or in any other form, which has or may subsequently be made available to respondents is provided on the following conditions:
  - a. in deciding to lodge or not to lodge a proposal in response to the request for a proposal or in interpreting this Request for Proposal, respondents do not rely on any representation, whether oral or written, other than as expressed in this request for Proposal;

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- b. while the contents of the Request for Proposal are believed to be accurate as at the date of the document, the statements, opinions, projects, forecasts or other information in the Request for a Proposal may change;
- c. where information relates to future matters, no steps have been taken to verify that the information is based on reasonable grounds and the Australian Government makes no warranty, that the statements in the Request for a Proposal will be achieved;
- d. this Request for a Proposal is only designed to reflect and summarise information concerning the Australian Government's requirement and is not a comprehensive description of it;
- e. neither the delivery of a Proposal nor any agreement made subsequently to this Request for a Proposal imply that there has been no material change since the date of this document or since the date as at which any information contained in this Request for a Proposal is stated to be applicable;
- f. except as required by law and only to the extent required, the Australian Government will not be liable for any loss, damage, cost or expense arising from the statements, opinions, projections, forecasts or other representations, actual or implied, contained in or omitted from this Request for a Proposal; and
- g. respondents should seek their own professional advice as appropriate.

#### **RESERVATION OF RIGHTS BY THE AUSTRALIAN GOVERNMENT**

- 11. The Australian Government reserves the right to:
  - a. vary the terms of the Request for a Proposal;
  - b. vary the timing and processes referred to in this Request for a Proposal;
  - c. cease the Request for a Proposal process;
  - d. alter the Government's approach during negotiations;
  - e. add or remove any respondent;
  - f. accept or reject any responses whether or not they are compliant;
  - g. obtain clarification or additional information from respondents;

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- h. provide additional information to any or all of the respondents;
  - i. negotiate or not negotiate with one or more respondents or a non-respondent;
  - j. discontinue negotiations with any respondent;
  - k. enter into a contract or other binding relationship outside the Request for a Proposal process; and
  - l. enter into a contract on terms specified by the Government.
12. The Australian Government will not be liable or in any way responsible for any losses, costs, expenses, claims or damage resulting from the exercise of any of the Government's rights referred to above or any failure to inform a potential respondent of a change relating to this Request for a Proposal or any other matter arising from the Government exercising its rights under this provision.

#### **NO CONTRACTUAL OBLIGATION**

13. The issue of this Request for a Proposal or any response to it does not commit, obligate, or otherwise create a legal relationship between the Government and a respondent in respect of entering into a contract or the process to be followed in handling proposals submitted in response to the Request for a Proposal.

#### **UNFAIR COMPETITION**

14. Respondents must ensure that neither they, nor their officers, employees or agents, has knowledge of the prices submitted by any other respondent prior to submitting its response to the Request for a Proposal and that the respondent did not disclose its price to any other respondent or to any other person except to a person assisting it with the preparation of its response.
15. Neither the respondent, nor any of its officers, employees or agents, has attempted or will attempt to influence an officer of the Government in connection with the assessment of responses to the Request for a Proposal.

#### **CLOSING DATE AND SELECTION PROCESS**

16. Completed RFPs must be forwarded to The Director, Management Administrative Co-ordination Section, Public Diplomacy Division, Department of Foreign Affairs and Trade, R G Casey Building, John McEwen Crescent, Barton ACT (Telephone: 02 6261 3825,

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Facsimile: 02 6261 3959), and must be received by 16 October 2000. After evaluating proposals, the Government will consider whether to proceed with contractual negotiations for the supply of a service or may seek more specific proposals from some or all potential providers. Subject to an acceptable proposal being received, it is envisaged that the Government would enter into a contract with the successful provider for five years, with an option for a further five year extension.

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#### **QUESTION NO. 2**

Output: 1.1 and 1.2 Australian Broadcasting Corporation

Senator Bishop (Hansard page 194) asked the following Question-on-Notice:

What would be the cost to government to fund the ABC to provide the service? Have you done those sums? [Has the ABC asked the Government for funding to provide the service?]

#### **Answer:**

The Government conducted a Request for Proposal process to assess the cost and nature of services which different providers, and alliances of providers might offer. Existing broadcasters and media organisations, including the ABC and SBS, were welcome to participate in the RFP process, as well as any other individual or body.

The ABC has not put funding proposals to the Government for the operation of an international television service.

#### **QUESTION NO. 3**

Output: 2.1

Senator Bishop (Hansard page No. 195/196) asked the following Question-on-Notice:

Who did the Minister consult in making the decision that Internet audio and video streaming should not be regarded as a broadcasting service? What advice did the Minister rely upon? Was it written advice?

#### **Answer:**

A review to determine whether or not Internet audio and video streaming services should be regulated as broadcasting services was conducted in July 2000.

The review included consultation with a number of key stakeholders. These included peak representative bodies such as the Internet Industry Association (IIA), the Australian Information Industries Association (AIIA), the Federation of Commercial Television Stations (FACTS) and the Service Providers Action Network (SPAN). Members of the Australian Information Economy Advisory Council (AIEAC) were also consulted.



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In reaching a decision the Minister took account of advice from the Department, the ABA and relevant stakeholders, particularly the IIA. The advice was provided both orally and in writing.

#### **QUESTION NO. 4**

Output: 2.1

Senator Bishop tabled the following Questions-on-Notice:

#### Isolated Children's Parents' Association:

- (i) In relation to the local call zone tender, how has the Government checked that what is being offered is suitable to and for Extended Zone Customers?
- (ii) What are the alternatives being offered by carriers, including Telstra?
- (iii) Will teleconferencing be possible? (not possible via satellite, but critical for distance learning)
- (iv) Has the Department undertaken any consultation with residents in extended zones?
- (v) Have any independent trials been conducted: (or is the government 'trusting' what the carriers and industry are telling them?)
- (vi) Will the government guarantee that voice services will remain unaffected?
- (vii) Will customers be afforded an opportunity to comment on the tenders – will there be any public consultation – prior to the tender being granted to the new PUSP (primary USP)?
- (viii) Why were tenderers not permitted to reveal details of what they were offering to customers?

#### **Answer:**

(i), (iv) In preparing the tender, the Government engaged in extensive consultation with State and Territory Governments and with community representatives to ensure that the needs of people living in remote areas were fully taken into account. There is also on-going engagement with community groups through Ministerial and Departmental representations. For example, the Government has previously responded to similar queries and concerns of the ICPA both directly and as part of larger briefings on the tender. In October 2000 the Secretariat to the tender briefed the Australian Communications Authority's Consumer Consultative Forum (which includes representatives concerned with remote telecommunications issues, in particular the Isolated Children's Parents' Association, the Consumers' Telecommunications Network and the National Farmers' Federation) about service requirements and tender processes.

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(ii), (viii) For the reasons set out in response to Q8 above, the Commonwealth cannot disclose details of tenderers' bids at this stage. As indicated in the response to Q9, tenderers have not been precluded from informing people of the telecommunications and information technology choices available to them.

(iii), (v), (vi) Tenderers will be required to provide services at operational standards comparable to those currently supplied by Telstra. Tenderers will also be required to demonstrate that their systems can deliver the service commitments they make, including through the use of technology trials if required. The Government will be assisted in the evaluation of these requirements by technical advisers.

(vii) It would be inappropriate for customers to comment on the tenders during the evaluation of bids. Interested parties were provided with an opportunity to comment during the first, Registration of Interest and Proposed Tender Approach, phase of the tender. The probity rules which have been established for the tender process, itself, are directed at ensuring that the tenders are evaluated using the processes and against the evaluation criteria which were notified to tenderers in the Request for Tender. The introduction of alternative procedures, such as the community consultations suggested by the ICPA, could provide avenues for alternative influences to be brought to bear on the decision-making process and call into question whether the tender decision had been made in accordance with the stated process.

#### QUESTION NO. 5

Output: 2.1

Senator Bishop tabled the following Question-on-Notice:

- (a) Can you tell about 2 projects that have received RTIF funding - the Electronic Outback Project and the Outback Digital Network project - what are these projects designed to do, who was the funding provided to and how much funding was provided? When was the funding provided?
- (b) Is it true that neither project has delivered a single phone connection on the ground or any other communications capacity?
- (c) Have these projects met reporting and performance timelines? If not, what have been the shortcomings?
- (d) What action has the Department taken in relation to these matters?

**Answer:**

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- (a) In March 1998, the Networking the Nation Board approved funding for the Northern Territory Government (through the NT Office of Communications, Science and Advanced Technology - OCSAT) of \$3.2 million to implement the Electronic Outback project (EOP). The project involves a roll out of satellite telecommunications infrastructure to fourteen remote communities in the Northern Territory and to undertake a pilot in four of those communities to trial alternative means of service delivery. The project will make a range of communications services available to the community, government service providers and the private sector on a commercial basis.

In November 1998, the NTN Board approved funding up to \$2.9 million for the establishment of the Outback Digital Network (ODN) in five regions of northern Australia including Kimberley/Pilbara (WA); Tanami, Tennant Creek and Top End (NT) and the Cape York (Qld). The overall aim of the ODN project is to establish a federated series of Indigenous managed, regional communications networks in which a range of communications services will be made available to over 100 communities in the five regions. The funding provided is for the first stage of the project's implementation involving the establishment of an ODN National Office and regional structures, development of business plans and technical network designs for each of the five regions, and to conduct a tender process for the selection of a telecommunications carrier to meet the telecommunications service needs of the regional networks.

- (b) The NT Minister for Communications, Science and Advanced Technology, Peter Adamson, announced the signing of a contract with Cable & Wireless Optus to deliver the satellite telecommunications infrastructure and services to the EOP on 27 November 2000. The roll out of infrastructure and services is expected to be completed in 2001.

In regard to the ODN, the NTN Board determined that to achieve sustainable services, significant planning and creative solutions would be required. Accordingly, the funding provided to the ODN at this stage has been solely for the purpose of undertaking a planning study, to develop technical network designs for the five regions of northern Australia and to select a carrier through competitive processes. The ODN is required to submit new applications to the NTN Board for the implementation of the network in each region, subject to the business cases demonstrating that a network and services are viable and sustainable.

- (c) There have been delays in the implementation of both projects. Initial delays were experienced as the NTN Board, in approving funding to the ODN, requested that the EOP and ODN projects negotiate to ensure the two projects were not targeting the same communities. These negotiations were completed in August 1999.

Complexities in attracting carriers have also resulted in delays for both projects. The communities to be serviced through both projects are located in some of the most remote

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parts of Australia and carriers have very little historical knowledge of community demand and use of telecommunications services.

Cable & Wireless Optus was recently announced as the successful carrier for the EOP. Accordingly, the rollout of infrastructure and services for the EOP communities will commence soon.

The ODN is currently negotiating with carriers and expects to finalise the selection of a carrier soon.

- (d) The NTN Secretariat monitors both projects closely and is actively pursuing the timely delivery of both projects.

#### QUESTION NO. 6

Output: 2.1

Senator Bishop tabled the following Questions-on-Notice:

In relation to the Untimed Local Calls in Extended Zones and the Mobile Telecommunications on Highways Tender, where are both of these tenders up to? In both cases, when does the Government expect that the successful Tenderer will be determined?

#### Answer:

#### Untimed Local Calls in Extended Zones and Mobile Phones on Highways

The Untimed Local Calls Request for Tender closed on 20 November 2000. The Mobile Phones on Highways Request for Tender closed on 1 November 2000. The Department of Communications, Information Technology and the Arts is currently evaluating tenders. Decisions regarding the preferred tenderer(s), if any, are anticipated as soon as practicable in the new year. The exact timing depends on a number of factors, including the complexity of the bids and the resolution of any issues which arise during evaluation and negotiations. The evaluation of tenders is being undertaken as efficiently as possible, with expert assistance from technical, financial, legal and probity advisers, with a view to achieving the best possible service benefits for remote Australians and for the maximum number of mobile phone users in Australia respectively.

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#### QUESTION NO. 7

Output: 2.1

Senator Bishop tabled the following Questions-on-Notice:

What will be the start date for the provision of services under each of these Tenders?

#### Answer:

##### Untimed Local Calls in Extended Zones

The Government's preference is that infrastructure and services for the Untimed Local Calls Tender be rolled out as soon as possible. Tenderers' proposed rollout schedules will be considered as part of the broader evaluation process, including in relation to the range of benefits that can be delivered.

##### Mobile Phones on Highways

In accordance with the Request for Tender documentation (section 3.2.12), the commencement date for the provision of mobile telephony services along Designated Highways will be no later than 30 June 2002.

#### QUESTION NO. 8

Output: 2.1

Senator Bishop tabled the following Questions-on-Notice:

Which companies or consortia have submitted bids or expressions of interest for each of the Tenders?

#### Answer:

##### Untimed Local Calls in Extended Zones and Mobile Phones on Highways

To disclose the number and identity of the bids at this stage could impair the Commonwealth's ability to achieve the best outcome from the competitive tender processes. Subject to any on-going commercial in confidence arrangements, further details of tenderers will be made public at the conclusion of the tender processes.

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#### QUESTION NO. 9

Output: 2.1

Senator Bishop tabled the following Questions-on-Notice:

Has the Government received objections from anyone about any of the terms or progress of either of these Tenders? What are those objections and what has been the Government's response?

#### Answer:

##### Untimed Local Calls in Extended Zones

Some concerns were raised about the scope of the probity arrangements for the Untimed Local Calls Tender, particularly in relation to the constraints imposed on public disclosures by tenderers about their tenders or the tender process. The Government's response has been that the arrangements which have been established are appropriate for a tender of this nature. It also advised prospective tenderers that the constraints did not prevent prospective tenderers from generally informing people of the telecommunications and information technology choices available to them, but were directed at constraining activities seeking to improperly influence the outcome of the tender process.

Some concerns were also registered about the timeframe allowed for the preparation of tenders, and various requirements proposed for inclusion in the draft Agreement (eg the power to terminate for convenience and financial securities). The Government's response has been that the two-stage process, involving the May release of the Proposed Tender Approach and the October release of the Request for Tender, effectively provided prospective tenderers with six months to develop their bids before the tender Closing Time of 20 November 2000. In addition, the Government considers that the provisions of the draft Agreement are consistent with provisions normally included in Commonwealth agreements, and are necessary to properly protect the interests of the Commonwealth.

##### Mobile Phones on Highways

To date the Government has received three objections. One in relation to technical issues and two in relation to timing issues. The Government's response regarding the technical issues was to seek expert advice about the concerns raised and respond directly to the carrier concerned.

The Government's response to the two issues of timing was to consider the requests and subsequently grant an extension of the closing date from 18 October 2000 to 1 November 2000, and grant a two-week extension for the provision of maps.

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#### QUESTION NO. 10

Output: 1.1 and 1.2 Australian Broadcasting Corporation

Senator Bishop tabled the following Question-on-Notice:

#### *Western Australian Symphony Orchestra*

Objective: To determine the impact of the proposed move of the ABC in Perth on the Western Australian Symphony Orchestra.

- (a) Why has the ABC failed to find accommodation for the Western Australian Symphony Orchestra in its proposed new premises in Perth?
- (b) Has the ABC received complaints that the allowance provided to the Western Australian Symphony Orchestra to provide its own accommodation is not sufficient for that purpose?
- (c) Will the ABC guarantee that the ABC will not move into any new premises unless appropriate and affordable accommodation has been identified for the Western Australian Symphony Orchestra? If not, why not?

#### **Answer:**

The Minister has received the following advice from the ABC.

- (a) The ABC has not included the Western Australian Symphony Orchestra (WASO) in its proposed new premises in Perth for the following reasons.

The development option that would have allowed the ABC to accommodate the WASO was not financially viable, being some \$4.5m more expensive for the ABC component than the chosen option, and would have meant additional development costs of at least \$6.0m to \$7.5m (land plus building) to accommodate WASO. This alternative option did not meet the ABC's key assessment criteria for an ABC-owned development and for the disposal of the Adelaide Terrace site to be available as one package to ensure a minimum financial risk to the ABC.

The ABC is no longer responsible for the operational or capital funding of WASO. The operation of WASO was transferred by Symphony Australia to West Australian Symphony Orchestra Holdings Pty Ltd in January 1998. The ABC provides certain user-pays services to the orchestras as specified in the Service Agreement between the ABC and the orchestra subsidiary companies. In the case of WASO, the ABC believes that it has fully complied with the requirements and spirit of the Service Agreement.

- (b) The ABC has received complaints from WASO. WASO advised the Public Works Committee that the principal issue relating to the proposed project as far as they were concerned was the

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inadequacy of the provision which the ABC had made to assist WASO establish itself in alternative premises.

The ABC committed to provide WASO with \$500,000 to assist with the fitout of (temporary) rented accommodation for WASO management and administration functions. In addition to the proposed \$500,000 contribution, the ABC has paid \$27,000 in fees for architectural and planning consultants to review various accommodation options for WASO.

- (c) No. The ABC is not responsible for the operational or capital funding of WASO. See also response to Question 10(a)

#### QUESTION NO. 11

Senator Lundy (Hansard page no 144) asked the following Question-on-Notice:

Can you provide me with a list of the companies that have been accepted?

#### Answer:

As of 1 December, 2000, 16 incubatees had been accepted under the BITS incubator Program. They are:

Xpertcorp.com  
Bluefish Wireless Pty Limited  
Softgame International  
Orchard.com  
ECup Global Pty Limited  
BD Media  
Global Building Technologies  
Textile World Wide  
Capital Art.com  
That Game  
Nexsys  
Fitness2live  
Mercury Red Wireless Solutions  
SandwichDirect.com  
Mystaff Pty Limited  
SiriusLogic.com Holdings Pty Limited



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#### QUESTION NO. 12

Senator Lundy (Hansard page No 145) asked the following Question-on-Notice:

**Of the \$78 million spent on the incubator program, can you tell me what proportion of that money will actually go to incubatees to support them through their start-up and early stages?**

I understand it will be difficult because of the different formulas within the different incubators, but could you perhaps take that on notice and extrapolate those figures out for each incubator so we know what your targets are?

I would like as much information as you can provide about each incubator and their model. I have seen the summaries of the successful applicants, but what I am interested in, from a public accounting point of view, is: out of that \$78 million, how much is going to the incubators and all of the administration; and how much, as a raw proportion, of that money is actually going to incubatees, knowing that there will be other sources of capital for those incubatees as well.

Could you nominate the indirect and direct spend too-for example if there is a capital grant to the company, as opposed to in-kind support which comes to the company via the administration of the incubator?

#### **Answer:**

Due to the detailed nature of the Senator's question, the Department is consulting with all incubators under the program and has requested their input.

Once the incubators have provided their input, a response will be provided.

#### QUESTION NO. 13

Output: 2.1

Senator Lundy (Hansard page no 146) asked the following Question-on-Notice:

- (a) How do you ascertain or define what a new job is under the contract.

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- (b) I need to know from you very specifically how that 400 regional jobs figure is derived-from whom and which contracts?
- (c) If you could tell us very specifically where those jobs are located and who the employer is.
- (d) What sorts of checks and balances do you do, given that you have just said that the figures for new jobs are actually contained within the contract themselves?

#### Answer

- (a) ID schedules of the contracts have employment in two categories. In-scope employment often has a large component of jobs transferred from the public sector to the new outsourcer and therefore not regarded as new employment. Out-of-scope employment is derived from initiatives that are not tied to the delivery of goods and services to the agencies, and is regarded as new employment. For example, the 400 jobs referred to under part (b) refers to the total of regional jobs to be created under all out-of-scope initiatives.
- (b) The 400 figure is the approximate total of commitments made by contractors to create regional jobs, through out-of-scope initiatives, across the five IT Outsourcing contracts signed to date. These are new jobs. For details of the jobs see the response to part (c) of this question.
- (c) The table below provides the projects to which the 400 regional jobs relate, the employers names and the principal location of jobs.

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#### Department of Communications, Information Technology & the Arts

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Project	Employer's Name	Principal Location	5 year Target
<b>Cluster 3</b>			
Hunter technology centre	CSC	Newcastle	24
Canberra software centre	CSC	Canberra	12
<b>Group 5</b>			
Australian IT technical assistance centre	IBM	Gold Coast	101
<b>ATO</b>			
E-business centre	EDS	Adelaide, Canberra	87
SME international marketing program	EDS	Adelaide, Canberra	2
SME scholarships to EDS executive course	EDS	Canberra	0.3
<b>Health Group</b>			
Wizard Information services marketing agreement	Wizard Information services	Canberra	15
Approved Systems marketing agreement	Approved Systems	Canberra	7
Australian IT technical assistance centre	IBM	Brisbane	117
University of Ballarat E-health project	University of Ballarat	Ballarat	5
ASI Solutions	ASI Solutions	Darwin	5
Nettrack	Nettrack	Canberra	1
<b>Group 8</b>			
Graduate training program	Ipex	Various Ipex regional locations	9
Technician education program	Ipex	Various Ipex regional locations	4
<b>Total</b>			<b>389.3</b>

- (d) During the evaluation phase (ie before the preferred tenderer is selected), considerable checking and clarification is undertaken to verify the initiatives put forward by tenderers. Therefore the commitments have been vetted before being included in a contract. Departmental officers form part of the industry development evaluation team.

During the monitoring phase the Department seeks information from companies on employment outcomes as part of the quarterly and annual reporting processes. Annual reports are audited. Employment numbers are amongst the information verified by the auditor.

# **Senate Environment, Communications, Information Technology & the Arts Legislation**

## **Committee**

### **ANSWERS TO QUESTIONS ON NOTICE**

#### **Department of Communications, Information Technology & the Arts**

Supplementary Budget Estimates 2000-2001, (23, 24, 30/11/00)

#### **QUESTION NO. 14**

Output: 2.1

Senator Lundy (Hansard page no 148) asked the following Question-on-Notice:

I do not accept that, and the question I have on notice about providing a fuller and very specific explanation as to why you are refusing to disclose that information to this committee will be required.

#### **Answer**

Legally an obligation of confidence will exist where the information provided is confidential (ie not a matter of public knowledge), the information has been provided in circumstances which imposed an obligation on the recipient to respect its confidentiality (eg the information is for a limited purpose or provided to limited persons) and any disclosure by the recipient is unauthorised. This exists to provide commercial protection for those parties. The ID Schedules also impose a specific obligation on the Commonwealth to gain the prior written approval from contractors prior to making public statements on any information marked "commercial in confidence".

The ID annual reports are provided to the Department by contractors marked "commercial in confidence" and are not a matter of public knowledge. The reports are provided exclusively to the Commonwealth for the purpose of assessing the contractors' performance in meeting their industry development commitments. The Commonwealth has not sought contractors' approval to release the information contained in their industry development reports. However contractors will be consulted, as required by the provisions of the ID Schedule, in regard to the information to be publicly released shortly in the Department's annual industry development report.

Based on the circumstances outlined above the Department believes it has an obligation of confidence in regard to contractors' ID annual reports.

The Department understands that the Australian National Audit Office had full and appropriate access to all of the contracts and schedules under the ITO Initiative.

In a practical sense, the Government prefers not to release the reports themselves because they include detailed financial and other data and details of subcontractor relationships. If closely analysed by a competitor, sensitive details about the commercial practices and activities of the reporting company could be identified. This could lead to the reporting company being commercially disadvantaged.

The Department aims to work with and support the ID activities of companies in an environment of full and open disclosure. Moving to a system of automatic release of ID reports could restrict the level of information companies are prepared to provide and therefore restrict our ability to understand their strategies and work to support them.

# **Senate Environment, Communications, Information Technology & the Arts Legislation**

## **Committee**

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Supplementary Budget Estimates 2000-2001, (23, 24, 30/11/00)

It is for these reasons that the Department will not automatically release contractor's industry development reports. However, the Department is fully committed to releasing an annual report on all contractors' performance against their contracted industry development commitments, which will include aggregate and company specific data. This report will allow interested parties to see how industry development is evolving through the initiative.

#### **QUESTION NO. 15**

Output: 2.1

Senator Lundy (Hansard page 149) asked the following Question-on-Notice:

I ask you to provide any documentation on this matter between you and the Department of Finance or OASITO or the minister's office to the committee.

#### **Answer**

The Department has had discussions with OASITO on a number of occasions in relation to the provision of information contained in the ID Schedules monitored by the Department. The advice received has been verbal, including discussion of legal and practical issues in relation to the extent that the contents of contracts could be made appropriately available. OASITO provided the Department with a QON, prepared for the 1999-2000 Budget: Supplementary Estimates Hearing – 1 December, as a guide to responses where issues of commercial in confidence arise (this is at Attachment A).

OASITO have been consulted and have provided advice in relation to responses to previous questions on notice about the dollar value of sanctions regimes and a request to table the industry development clauses of contracts.

The Department relies on OASITO's advice in relation to releasing the content of the ID Schedules, which are a component of the various Service Agreements, because under the Administrative Arrangements Order of 21 October 1998 the Finance and Administration Portfolio was given responsibility for the IT Outsourcing function, which is managed within that portfolio by OASITO.

To confirm the legal issues in relation to disclosure the Department sought its own legal advice. That advice suggests that it may be more appropriate for OASITO to provide information relating to the content of IT Outsourcing contracts, and that elements of the contracts are validly specified as commercial in confidence.

**Senate Environment, Communications, Information Technology & the Arts Legislation**

**Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Department of Communications, Information Technology & the Arts**

Supplementary Budget Estimates 2000-2001, (23, 24, 30/11/00)

**ATTACHMENT A**

**Senate Finance and Public Administration Legislation Committee**

**Answers to questions on notice - 1999-2000 Budget:**

**Supplementary Estimates Hearing - 1 December 1999**

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**Senator Lundy asked:**

The Committee be provided with information relating to full details of the Contract that DIMA has with CSC in relation to Cluster 3, including the detailed unit rates of all aspects of services that are currently part of the Contract with CSC.

**Answer:**

The Government prefers to not release the contract for the Cluster 3 IT outsourcing arrangement with CSC as this would cause commercial damage to both the Commonwealth and the vendor, and it would therefore not be in the interests of the public to release that documentation. The contract represents a negotiated position with CSC and to some extent would be commercially sensitive in subsequent tender processes.

The release of the Cluster 3 contract would undermine the Commonwealth's competitive process by establishing a lowest common denominator for future negotiations. For example, the change to terms and conditions are based on the specific circumstances of one tender process and views of agencies involved in that process might be taken as a generally acceptable position potentially undermining the Commonwealth's ability to hold to a preferred position in future. From a vendor perspective, competitors would be able to see exactly what each other has agreed to.

The Request for Tender documentation for each IT outsourcing project is a publicly available document. The RFT includes the draft contract, and for each project, it represents the Commonwealth's preferred position. The draft contract provides the whole contractual framework and the Commonwealth maintains a firm position on many key areas such as privacy and confidentiality. Access to key clauses such as these and other schedules such as service levels and the statement of work, could be considered on a case by case basis.

# Senate Environment, Communications, Information Technology & the Arts Legislation

## Committee

### ANSWERS TO QUESTIONS ON NOTICE

#### Department of Communications, Information Technology & the Arts

Supplementary Budget Estimates 2000-2001, (23, 24, 30/11/00)

#### QUESTION NO. 17

Output: 2.1

Senator Lundy (Hansard page 152) asked the following Question-on-Notice:

(re CSC contracts)

- (a) What consideration would you give such an event for the purposes of calculating a net jobs growth or loss for the industry development commitment?
- (b) Indeed, what overall comment or commentary would you give about the employment-or otherwise-created by the IT outsourcing program?

#### Answer

- (a) Our understanding is that the job reductions referred to were a direct consequence of the takeover of BHP IT and GEC and the integration of these companies into CSC's Australian operations. CSC has confirmed that the staff reductions will have no impact on the Cluster 3 account.

Employment targets identified by CSC in contracts have to be met and CSC has to be able to demonstrate to the independent auditor that this has occurred. Our understanding is that CSC has presented the auditor with lists of employees covered by its Cluster 3 contract commitments.

- (b) The employment created by the IT Infrastructure Initiative is significant. Approximately 1,000 jobs, 400 of which are in regional Australia, have been committed to by contractors within the out-of-scope initiatives of the five contracts let to date. The commitments by contractors represent the minimum number of jobs expected to be created. Performance by the contractors to date suggests that these commitments will be exceeded.

#### QUESTION NO. 18 and 20

Output:

Senator Lundy asked the following Questions-on-Notice:

Can you give me a monetary figure for those service credits?

You took on notice to provide me with details about the financial level of sanctions applied, didn't you?

**Senate Environment, Communications, Information Technology & the Arts Legislation**

**Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Department of Communications, Information Technology & the Arts**

Supplementary Budget Estimates 2000-2001, (23, 24, 30/11/00)

**Answer:**

For the months July 1999 through to November 2000, the Department has applied \$897,571.65 of service credits to Advantra.

**QUESTION NO. 19**

Senator Lundy asked the following Question on Notice:

Can you just confirm again: the ANAO report identified the fact that the Minister for Finance did not actually require the prerequisite savings to be identified before the group 5 contract was signed off.

**Answer:**

The Department has no knowledge of the Minister for Finance's decision. This would be a question best asked of the Minister for Finance.