

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Estimates, November 2004

Question:

Topic: ASIC - Procurement

Hansard Page: Written

Senator Murray asked:

1. When did the Department last update its procurement policy documentation?
2. What mechanisms does the Department have in place to ensure its procurement guidelines reflect current policy in relation to government contracting?
3. Do the Department's current procurement guidelines refer to all of the following accountability mechanisms:
 - The Senate order for departmental and agency contracts;
 - The Department of Finance and Administration's February 2003 *Guidance on Confidentiality of Contractors' Commercial Information*; and
 - The Commonwealth Procurement Guidelines (CPGs) ?
4. Do the Department's tender documentation and contract templates include the following elements:
 - a statement outlining the various Commonwealth accountability requirements;
 - a consistent definition of confidential information across all templates;
 - a provision for the inclusion of specific reasons justifying why a tenderer may wish to protect certain information in the contract if it awarded;
 - a section that outlines the obligations of confidentiality after the contract has been awarded;
 - a more detailed outline, with the general non-disclosure clauses, of the exceptions to confidentiality obligations for Commonwealth contracts; and
 - the model contract clauses, given in DOFA's February 2003 *Guidance on Confidentiality of Contractor's Commercial Information* ?
5. At page 51 of ANAO Audit Report No.10 2004-2005, *The Senate Order for Departmental and Agency Contracts (Calendar Year 2003 Compliance)*, the ANAO has concluded that all FMA agencies would benefit from implementation of contract training courses, or a review of current courses, to ensure that the Senate order

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requirements are adequately covered and that procurement staff receive relevant DOFA guidance.

What training does the Department currently have in place for procurement staff?

6. Does this training cover the requirements of the Senate order for departmental and agency contracts and refer to DOFA's February 2003 *Guidance on Confidentiality of Contractor's Commercial Information*?

Answer:

1. ASIC's Procurement Policy was last updated on 16 December 2004 to incorporate the requirements of the CPGs as they stood in December 2004. A further revision to the Procurement Policy to include changes to the CPGs and the release of further guidance documents is currently underway.
2. ASIC's Chief Financial Officer is the point of contact for all Procurement Circulars and Guidances issued by DoFA, including revisions to the CPGs. The Chief Financial Officer is the ASIC Policy owner and has direct responsibility for ensuring updates are reflected in a timely manner in response to changes in Government policy.

Furthermore, a Project Board consisting of three Senior Executive Service officers is responsible for sign-off on all revisions.

ASIC's Procurement policy and compliance with the policy is reviewed by ASIC's internal auditors.

3. The Senate order for departmental and agency contracts does not apply to ASIC, as ASIC is a CAC Act agency. This has been noted on ASIC's web site as agreed with the ANAO.

ASIC's Procurement Policy complies with all of requirements contained in the CPGs, and the CPG is included in full as an appendix.

In relation to the Guidance on Confidentiality, ASIC's Policy incorporates references to the principles of confidentiality. A link will be added to the Policy Manual to direct the reader to the Guidance on Confidentiality. ASIC notes the Guidance on Confidentiality applies to FMA Agencies only.

4. ASIC does not utilise standard tender or contract templates. ASIC's preference is to deal with each contract individually and to the extent that it is appropriate to use precedent clauses in a particular circumstance, these are provided on advice received from ASIC's Office of General Counsel.

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In connection with the matters referred to above, their inclusion in the contract documentation would depend on the appropriateness and individual circumstances in respect of each contract.

5. ASIC is a CAC Act agency and is not covered by the Order. However, procurement and finance officers with procurement responsibilities are members of DoFA's Procurement Discussion Forum and attend forum meetings where agenda items cover requirements that impact on ASIC's Procurement Policy and internal processes.
6. Procurement and finance officers with procurement responsibilities are aware of the guidance as it is specifically referenced in the guidance. ASIC staff have not attended any formal training courses covering this guidance.