

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Estimates, November 2004

Question: Supp 3

Topic: ACCC - 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. The ACCC last updated its procurement policy documentation in December 2004.
2. The responsibility for the currency of procurement guidelines rests with the ACCC's Chief Finance Officer (CFO). The CFO receives all procurement update information from the Department of Finance and Administration. The internal guidelines refer to the Department of Finance and Administration's website which has the most current available information. The CFO and other staff receive specific advices from the Department of Finance and Administration on procurement matters and also attend the Procurement Discussion Forum held on a regular basis by the Department.
3. The current procurement guidelines in the ACCC refer to the Commonwealth Procurement Guidelines which in turn refers to the accountability mechanisms identified in the question.
4. The ACCC's tender documentation and contract templates include the various elements as indicated below:

Element	ACCC documentation
Accountability requirements outlined	No, however all contracts have provision for access by the Australian National Audit Office.
Consistent definition of confidential information	Yes.
Inclusion of specific reasons justifying Tenderer information protection	No.
Confidentiality obligations post contract award	Yes.
More detailed outline of exceptions to confidentiality obligations	No.
Model confidentiality contract clauses	No, however similar clauses have been used.

5. The ACCC provides on the job training for procurement staff and encourages attendances at appropriate external training opportunities.

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6. The ACCC's on the job training for procurement staff is based on internal procedures which covers off the Senate order for departmental and agency contracts and all guidance provided by the Department of Finance and Administration.