

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
 Industry, Tourism and Resources Portfolio
 Supplementary Budget Estimates 2005-2006, 2 November 2005

National Offshore Petroleum Safety Authority	NOPSA is currently updating its Chief Executive Instruction on procurement to reflect the 'confidentiality' elements of the new Commonwealth Procurement Guidelines. These elements are reflected in the RFT documents framework used by NOPSA.
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QUESTION No.SBI-109

Senator Murray asked:

ANAO audits for the last three years have revealed a consistently low level of compliance across most agencies with DOFA confidentiality criteria (February 2003) for determining whether commercial information should be protected as confidential. The ANAO's latest report on the Order (No.11 2005-2006, September 2005) states that departments and agencies need to give higher priority with this important requirement of the Senate Order.

- (a) What specific measures have been or will be taken to address this problem, give it higher priority and raise compliance levels?
- (b) What guidance and training are provided to staff about the confidentiality criteria and the four tests employed to determine whether information should be protected?
- (c) What internal auditing or checking is performed to test compliance in this area? If none is performed, why not and is the agency considering the adoption of internal controls and checks?

ANSWER

Department of Industry, Tourism and Resources	<ul style="list-style-type: none"> (a) DITR continues to raise staff awareness as to what information should be treated as confidential. DITR intends to develop a guidance checklist on treating information as confidential, which will be accessible to all staff. This is in addition to the ongoing contract management courses and procurement seminars. (b) The information on confidentiality criteria, including the four tests employed to determine if information should be protected or not, is included in the bi-annual guidance provided to divisions collating and validating data for the Senate Order reporting. Links to DOFA guidance are also available on the DITR procurement Intranet site. Additionally, information is contained in the DITR 'model' (i.e. template) Request for Tender (RFT) document and 'model' (i.e. template) long form contract. DITR conducts regular contract management course, which includes information on the confidentiality criteria. (c) DITR has a two-stage validation process. Bi-annually, divisions are required to collate and validate information for the Senate Order reporting. The Senate Order response is then validated by the central Contract Management Unit to ensure compliance with DOFA guidance. The Department currently has an internal audit underway into contract management. Whilst the audit is focused on reviewing the existing contract management practices, it is also intended to identify better practices that can be adopted to streamline and improve the existing contract management practices.
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IP Australia	<p>(a) IP Australia has an ongoing education program specifically targeted at compliance with all areas of Commonwealth procurement. IP Australia will specifically target Senate Order requirements in its future training needs.</p> <p>(b) IP Australia's procurement staff are advised to apply the confidentiality tests as indicated on DOFA's procurement website.</p> <p>(c) IP Australia's procurement staff participate as members on tender evaluation panels, and apply their skills and knowledge in regard to confidentiality clauses when assessing tender responses. IP Australia procurement staff assess contracts prior to registering them on the Corporate Contract Register to determine whether they contain provisions requiring the parties to maintain confidentiality of any of its provisions.</p>
Geoscience Australia	<p>(a) Geoscience Australia intends to improve wording in its <i>Procurement of Goods and Services</i> Chief Executive Instruction to make the confidentiality criteria more explicit.</p> <p>(b) Geoscience Australia's Contracts Section staff are aware of the confidentiality criteria and each tenderer has the opportunity within their tender to answer a question on what confidentiality they want to apply under the Senate Order, which is referenced to the Senate Order web site.</p> <p>(c) Geoscience Australia's Contracts Section reviews contracts when recording details on the contracts database. Geoscience Australia's generic contracts contain a clause in the schedule that has to be addressed if the contract value exceeds \$100,000. Reporting is undertaken by interrogating the contracts database.</p>
National Offshore Petroleum Safety Authority	<p>(a) NOPSA is currently updating its Chief Executive Instruction on procurement to reflect the 'confidentiality' elements of the new Commonwealth Procurement Guidelines. NOPSA endeavours to ensure that adequate information is provided to clients on the confidentiality (or otherwise) of contractual material.</p> <p>(b) DOFA has provided adequate training to NOPSA staff in relation to the confidentiality criteria.</p> <p>(c) NOPSA is endeavouring to obtain the services of an outsourced internal auditor to audit compliance in this area and has put in place the necessary internal controls and checks. The internal audit will review the procurement processes and decisions from a risk management perspective.</p>