

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

Supplementary Budget Estimates 3 November 2005

Outcome

Topic: MURRAY SENATE ORDER

SBT-102 WQ: Murray

Senator Murray asked:

- a) What guidance is provided to staff with responsibilities for contract negotiations specifically about the requirements of the Senate Order? If relevant guidance is not provided, please explain why this is the case.

Answer: ATO Procurement Guideline 2004/01 *Identifying Information to Protect as Confidential Information* provides detailed guidance specifically about confidentiality provisions and their reporting in the Senate Order. Procedural documentation on the process for compiling the Senate Order is provided to officers involved in that process. Procurement guidance material also refers to the Department of Finance and Administration's February 2003 *Guidance on Confidentiality of Contractors' Commercial Information*.

- b) What training and awareness sessions are provided, either in-house or through other training providers (eg. DOFA, APS Commission or private firms) in respect of the Order? Please provide a list of the dates, the identity of the training providers and the content of the training that staff attended in 2005. If training and awareness sessions are not provided, please explain why this is the case.

Answer: Corrs Westgarth Chambers was engaged to provide workshops on confidentiality provisions for procurement staff in November and December 2003. Further training sessions are planned for the 2006 calendar year.

- c) Has the department/agency revised its procurement guidelines to incorporate the new Commonwealth Procurement Guidelines that took effect from 1 January 2005, particularly with respect to the confidentiality elements contained in those guidelines? If so, when did this occur and can a copy be provided? If not, what is the cause of the delay and when will the revision occur?

Answer: The ATO revised its suite of guidance documentation to incorporate the new Commonwealth Procurement Guidelines in the first quarter of 2005. ATO Procurement Guideline 2004/01 was updated on 15 December 2004, a copy is attached. . Currently, the ATO's standard form RFT and contract documents use the standard Commonwealth confidentiality clauses.

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- d) 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.
- (i) What specific measures have been or will be taken to address this problem, give it higher priority and raise compliance levels?
- (ii) What guidance and training are provided to staff about the confidentiality criteria and the four tests employed to determine whether information should be protected?
- (iii) 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: With respect to the ANAO's latest report:

- i) Measures to review contracts currently listed as containing confidentiality provisions are being planned for commencement in early 2006.
- ii) The previously identified ATO Procurement Guideline is available on the ATO intranet, and staff are requested to familiarise themselves with it. Further formal training sessions are planned for 2006.
- iii) Currently, procurement officers responsible for each contract check and report confidentiality provisions. Measures referred to in point (i) will involve the officer responsible for collating and publishing the information in accordance with the Senate Order guiding a review of contracts and identifying any that are being reported incorrectly.
- e) What problems, if any, has the agency and/or relevant staff experienced in complying with the Senate Order? What is the nature and cause of any problems? What measures have been, or could be, adopted to address these concerns?

Answer: None.