

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates, 2 November to 3 November 2005

Question: SBT 70

Topic: PC – Senate Order

Hansard Page: Written

Senator Murray asked:

1. 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.
2. 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?
3. 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.
 - What specific measures have been or will be taken to address this problem, give it higher priority and raise compliance levels?
 - What guidance and training are provided to staff about the confidentiality criteria and the four tests employed to determine whether information should be protected?

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?

4. 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?

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Answer:

1. The Productivity Commission's Chief Executive Instructions require that officials involved in the procurement of goods and services must have regard to the guidelines issued by the Minister for Finance and Administration, including the *Commonwealth Procurement Guidelines*. Those guidelines are cross-referenced to the Finance publication *Guidance on Confidentiality of Contractors' Commercial Information*.
2. The Productivity Commission relies directly on the Commonwealth Procurement Guidelines, as updated from time to time.
3. The Productivity Commission has very few (currently 6) contracts in excess of \$100,000, and none of them have confidential clauses included. All proposed contracts are checked by a single contact point. The occupant of that position is aware of the DoFA confidentiality criteria and the ANAO's audit recommendations.
4. The Productivity Commission has not had problems in complying with the Senate Order.