

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates, 2 November to 3 November 2005

Question: SBT 74

Topic: IGT – 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:

The Inspector-General of Taxation has a service level agreement with the Treasury for it to provide the Inspector-General with corporate services, including advice, guidance and administrative support in complying with the Senate Order and negotiating contracts. Pro-forma contract documentation and guidance on contract negotiation is provided as part of this contract. This documentation includes the requirement to identify any provisions potential contractors consider should be kept confidential and the basis for that confidentiality. The Treasury has orally assured the Inspector-General that this pro-forma documentation has been updated to incorporate the new Commonwealth Procurement Guidelines in January 2005.

Additionally, Inspector-General staff refer to DOFA's February 2003 publication "Guidance on confidentiality of contractors' commercial information" and the ANAO's audit reports on the Senate Order for Departmental and Agency contracts.

The ANAO's report No. 10 of 2004-05 found that in 2003 the Inspector-General had published its 1 relevant contract in accordance with the Order and noted that there was no confidentiality provision. However, it did not specify the cost of complying with the Order and the method to calculate that cost. This oversight has since been rectified as subsequent publications demonstrate.

The Inspector-General has only entered into one contract falling within the scope of the Order. Internal auditing is seen as a lower priority as this contract does not contain a confidentiality provision. Checks are made internally with the Chief Financial Officer to ensure all relevant contracts are published. The Inspector-General's staff have not found problems in complying with the Order.