

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Finance and Administration Portfolio

Australian Electoral Commission

Supplementary Budget Estimates Hearings 2005-06 – 01 November 2005

Question: F37

Outcome: Australian Electoral Commission

Topic: Senate Order for departmental and agency contracts

Written Question on Notice

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. What training and awareness sessions are provided, either in-house or through other training providers (eg Department of Finance and Administration, 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 not the case.
3. 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?
4. The 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 2005-06, 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 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?

5. 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:

1. All contracts in the AEC must be referred to the AEC's National Contracts and Procurement Advisory Unit. The AEC's policies and procedures in relation to procurement are very explicit in relation to the requirements of the Senate Order. Training about confidentiality has also been provided over the last 3 financial years for all staff involved in contract related procurement.

2. The AEC conducts an in-house national contracts and procurement training program each year. There has been no specific training focusing on the Senate Order primarily because responsibility for addressing the requirements is retained by a specialised National Contracts and Procurement Advisory Unit and the requirement for all contracts to be referred to the Unit.

The AEC proposes to include a more specific Senate Order module in its training programming scheduled for the latter half of the 2005-06 financial year.

3. The AEC has revised its Policy and Procedures for Procurement to reflect the new Commonwealth Procurement guidelines that took effect 1 January 2005. The revision took place in the first part of 2005. The specific treatment of confidentiality under the revised guidelines has been dealt with in the "Steps in Contracting" document, which is an adjunct to the revised guidelines. A copy has been provided to the Committee Secretary. The AEC, through the Australian Government Solicitor has also revised its standard form contract and Request for Tender documents to reflect the changes, particularly in relation to confidentiality.

4. The AEC proposes to place greater focus on the Senate Order requirements in its contracts and procurement training and awareness programs.

The issue of confidentiality in contracts is addressed by a specialised Contracts and Procurement Advisory Unit. There has been no specific training or awareness sessions provided to staff elsewhere in the AEC.

The National Contracts and Procurement Advisory Unit is responsible for applying the four tests to determine whether claims for confidentiality in a contract are bona fide and meet Senate Order requirements.

5. The only problem that may arise will be at contract negotiations when the service provider may wish to assert confidentiality. Claims of this nature are referred to the National Contracts and Procurement Advisory Unit for negotiation with the contractor. It is generally the case that when examined, and the four tests are applied to confidentiality claims, they cannot be substantiated against the Senate Order criteria.