

**Senate Finance and Public Administration Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Finance and Administration Portfolio**

**Commonwealth Grants Commission**

Supplementary Estimates Hearings - 1 November 2005

**Question: F40**

**Outcome 1, Output 1.1**

**Topic: Order for departmental and agency contracts**

**Written Question on Notice: 1 November 2005**

**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. 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.
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. 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?
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?

# Senate Finance and Public Administration Legislation Committee

## ANSWERS TO QUESTIONS ON NOTICE

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Supplementary Estimates Hearings - 1 November 2005

#### Answer:

1. Guidance is provided by the Chief Finance Officer by way of advice and reference to appropriate publications in meeting the requirements of the Senate Order. Most of the procurement activities by the Commission are at the simple procurement level. The Commission is a small agency and its staff do not possess the experience or qualifications to complete complex contract negotiations. To overcome this area of weakness the Commission has entered into cluster arrangements to utilise the expertise of other Departments particularly in the area of contract negotiations. Examples of this successful strategy relates to a travel contract by the Australian Taxation Office with QANTAS. The Commission is a cluster member and a signatory to the contract however negotiations were undertaken and completed by the ATO contract team.
2. Awareness sessions are provided in house by the Chief Finance Officer utilising the Department of Finance and Administration published documents regarding procurement such as the Commonwealth Procurement Guidelines- January 2005.
3. The Commission has amended its procurement policy to make specific mention of the Mandatory Procurement Procedures and the Commonwealth Procurement Guidelines.
4. In regard to compliance the Commission advises:
  - For new contractual arrangements, for example, cluster arrangements, the CGC will seek confirmation on the confidentiality criteria to enable accurate reporting in terms of the Senate Order.
  - Relevant employees are currently aware of the tests. New employees with contracting responsibilities will receive appropriate training.
  - The Chief Finance Officer checks the accuracy of compliance in this regard.
5. The Commission has not experienced any problems in meeting the requirements of the Senate Order.

# Risk Identification and Analysis

# Telecommunications Services

Commencement Date

6-Feb-06

As At

8-Feb-06

No #	Code	Risk type	Source	Expected Consequences / Impact	Existing Controls	Control Assessment	Likelihood (1 - 10)	Impact (1 - 10)	Risk Value	Risk Rating
1	Procurement	Perception of poor probity/bias.	Tenderers complaints Poor quality of decision making documentation Poor oversight of the processes Lack of protocols Accusation of preference to incumbent Timing of a potential T3 sale	Complaints to the Minister. Complaints to procurement hotline External scrutiny. Adverse media coverage. Litigation. Perception by other providers of favouritism.	Following Finance CEI's, FMA act, approval processes Public sector code of conduct Legal advice Good reputation of Finance Probity review and audit All interactions with potential tenderers during tender process in writing Interactions with potential tenders with two people prior to tender date	Effective	3.0	6.0	18.0	Moderate
2	Procurement	Tender is not compliant with Commonwealth Procurement Guidelines.	Complexity of CPGs Poor documentation Poor oversight of the processes Lack of protocols Poor policy advice	Reputation of Department/Minister. External scrutiny including senate sub committees Media attention Litigation Start process again Cost Team morale.	Following Finance CIEs, FMA act, and approval processes Legal advice Probity review and audit Readily available knowledge of Guidelines within Department - & checking compliance AGIMO/WOGTA	Effective	1.0	8.0	8.0	Moderate
3	Procurement	Inadequate statement of requirements	Inadequate identification & action on potentially related issues Inadequate preparation and review Poor oversight of the processes Lack of protocols Poor policy advice Poor understanding of the project Staff inexperience in Telecommunications management issues Virus and Spam prevention requirements Increased expectations from Ministers and Senators Specialised billing and invoicing requirements (privacy requirements) Profile and interest of client group Changing technology/ convergence	Best provider not selected. New contract does not deliver best possible services. Contract management difficult. Additional work for M&PS. Poor responses to RFT. Future contract not value for money. Damage to reputation	Audit of required services being undertaken Procurement of specialist advice Stakeholder consultation Working Group expertise Liaison with Finance Corporate Provide the highest broadband capacity that is available to the area AGIMO/WOGTA FM - Amendment of entitlements to include broadband capacity and other updated requirements through SMOS. Limitation of requirements to current entitlement FM - Clarification of minority group requirements.	Partially effective	6.0	5.0	30.0	Significant
4	Procurement	Breach of security regarding confidential information during the tender process.	Tenderers confidential information released to other tenderers	Complaints to the Minister. External scrutiny. Adverse media coverage. Litigation. Requirement to restart the process. Reputation of Department/Minister. Media attention. Additional costs Team morale.	Working Group and M&PS staff aware of the requirements & consequences Documentation well secured Finance "All Staff" email notification re Dept. requirements Min of two staff at all meetings with possible external providers "Current (Finance) Provider" constrained by legal and self interest considerations	Very Effective	2.0	3.0	6.0	Low

No.	Code	Risk type	Source	Expected Consequences / Impact	Existing Controls	Control Assessment	Likelihood (1 - 10)	Impact (1 - 10)	Risk Value	Risk Rating
5	Procurement	Loss of key people (project team members or consultants.)	Staff turnover Competing workloads Requirement for specialist skills	Delays. Weaknesses in scope of work. Poor evaluation process. Flow on effects to other Group contracts and tender processes	Working Group to share knowledge Extensive documentation - including project plans Backup within Legal and Contracts Experience in other areas of Finance All documents on G drive - nightly off site backup AGIMO FM -Contract requirements for specialist advice Recruitment action occurring Legal and contracts section	Partially effective	4.0	4.5	18.0	Moderate
6	Procurement	Poor evaluation of tenders.	Inadequate statement of requirements Inadequate clarification of offers Evaluation criteria not adequate Poor responses from tenderers Ineffective evaluation team Time pressures (inflexible end date) Specialist knowledge requirements to write and evaluate tender Tender Evaluation Team membership inappropriate	Best provider not selected. New contract does not deliver best possible services. Contract management difficult. Additional work for M&PS. Poorly framed responses to RFT. Future contract not value for money. Complaints to the Minister. External scrutiny. Adverse media coverage. Litigation. Damage to reputation.	Stakeholder consultation Working Group expertise Liaison with Finance Strategic Partnerships AGIMO FM -Contract requirements for specialist and legal advice Probity review Tender Evaluation Plan Tender Evaluation Tool / APET	Partially effective	5.0	5.0	25.0	Significant
7	Procurement	Inappropriate KPIs	Poor understanding of services required Inadequate skills/experience in KPI selection Lack of industry understanding Lack of Outcome focused KPI's Incompatibility between industry standards and actual requirements	Ineffective contract management Poor/inconsistent service delivery Decreases value for money	Taking best practice examples from other agencies. Experience within team Awareness of issue of result of poor KPIs Departmental KPIs Access to external expertise AGIMO FM -Contract requirements for specialist and legal advice	Effective	3.0	4.0	12.0	Moderate
8		Contractor does not provide required services	Inadequate contract management resources, skills, experience or dedication. Inadequate performance monitoring or review (including inappropriate KPIs). Development of inappropriate relationships between contract manager and service provider. Inadequate contract Inadequate mobile coverage in some areas Inappropriate performance measures Changed character of service provider Changed operating environment Turnover of key staff Inadequate contract management	Contract does not deliver most cost effective services. Exposure to dispute / litigation. Additional work for M&PS. Dissatisfied stakeholders. Damage to reputation	Tender and evaluation process Reputation of provider (significant) Fee for service contract Termination for non performance clauses in contract	Effective	3.0	4.0	12.0	Moderate
9		Poor response to RFT.	Ineffective evaluation team Evaluation criteria not adequate Clarity of RFT Requirements too onerous Perception of inappropriate probity	Tenders received are not value for money or exceed budget. Need to retender if no one meets requirements. Poor services delivered. Limited services delivered while retendering.	Knowledge of market Consistent with market minimum requirements High value high profile contract will entice interest Industry briefings	Effective	2.0	6.0	12.0	Moderate

No #	Code	Risk type	Source	Expected Consequences / Impact	Existing Controls	Control Assessment	Likelihood (1 - 10)	Impact (1 - 10)	Risk Value	Risk Rating
10		Failure to adequately brief Special Minister of State, Finance Minister, etc.	Poor oversight of the processes Lack of protocols Poor policy advice Poor understanding of the project Complaints from other members/senators	Criticism from Ministers' offices and/or Secretary.	Experience within team Project plan inclusion GM M&PS & M&PS team performance record Other valued relationships Reg 10 (Included in Project Plan)	Very Effective	1.0	5.0	5.0	Low
11		Contract documentation does not meet needs	KPIs do not reflect service provided Linked to risk/reward process Poor formulation of the KPIs Interpretation of the KPIs Inadequate contract wording	Increased costs Relationship with the service provider Incentive does not reflect the required services Prevents appropriate contract management Litigation	Audit of required services being undertaken Stakeholder consultation Working Group expertise Liaison with Finance Corporate Legal services used in contract preparation part of tender process Ability to amend contract (variation)	Effective	3.0	4.0	12.0	Moderate
12		Service provider failure - financial, personnel etc	Inadequate probity checks Poor documentation Poor understanding of the project Size of the providers Expertise of providers Change of circumstances of service provider Change of operating equipment	Increased costs Relationship with the service provider Provision of services Criticism from Ministers' offices, senators, members and/or Secretary.	Tender evaluation & referees National capability Robust tenderers Financial audits Performance guarantees Accreditation auditing Fee for service contract Non performance termination clauses	Effective	2.0	4.0	8.0	Low
13	Bundling of services	Requirements limit number of tenderers	Finance may have specific restrictive requirements Reliable services required in remote locations - particularly during electioneering	Limits capacity to achieve value for money Unfavourable media reports on tender process or outcome	Departmental knowledge	Marginal	4.0	7.0	28.0	Significant
14		Unfavourable media reports on tender process or outcome	Conflicting Stakeholder interests Claims for equal service standards for all Regional support for uniform national service standards Interest raised by T3 sale						0.0	
15		Timeframe for finalisation not met	Delays to attend to issues raised by stakeholders Number of approval steps required Delays by approver(s)	Delays Not achieving value for money Increased risk of staff turnover		Partially effective	5.0	4.0	20.0	Moderate
16		Additional costs resulting from transition to new provider	Limited understanding of requirement An omission Inadequate specification	Higher costs Lack of value for money Savings not achieved	Technical advisor	Effective	4.0	6.0	24.0	Significant
17		Overlap with other related contracts	Merging of technologies Compatibility with existing contracts	Legal action Additional costs Lack of value for money	Legal advice	Effective	3.0	7.0	21.0	Significant
18		Additional requirements	SMOS "future vision" Disability, disadvantaged, non english speaking requirements						0.0	
19		Convergence of Technological Change & provision for future	Technological change Hybrid C&IT systems Contract fixed in time VoIP ADSL CDMA being phased out Service providers change Commercial agreements on offer change CDMA being phased out						0.0	
20	Separate Sourcing	Multiple providers & subcontracting	Regional areas in scope Whole of Government Telecommunications arrangements Stakeholder support for regional service	Management of contracts Inconsistent services					0.0	

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21	Value for money not achieved	Dominant service provider in market covers the most important consideration for our clients						0.0	
22	Bundling of services	Stakeholder support for regional service arrangements Commercial offers by potential service providers	Cost savings Fewer offers Best services in all areas not provided Overlap of commercial offers - difficult to separate					0.0	
23	Bundling of services	insufficient competition covering all areas	Best services in all areas not provided Overlap of commercial offers - difficult to separate					0.0	
24								0.0	
25								0.0	
26								0.0	
27								0.0	
28								0.0	
29								0.0	
30								0.0	