

Standing Committee on Finance and Public Administration

ANSWER TO QUESTION ON NOTICE

Supplementary Budget Estimates Hearing – October 2008

Department of Finance and Deregulation,

Finance and Deregulation Portfolio



Outcome 2: Improved and More efficient Government Operations

Output 2.3.1: Procurement Framework

Topic: New *Commonwealth Procurement Guidelines*

Question reference number: F45(a) to F45(g)

Type of Question: Written

Date set by the committee for the return of answer: 5 December 2008

Number of Pages: 2

Senator: Senator Fifield asked:

I understand that on 10 October 2008 the Minister for Finance issued new Commonwealth Procurement Guidelines to apply from 1 December 2008.

- (a) What consultation with business took place on these new guidelines?
- (b) Please give details of any consultation on these new guidelines with the accounting sector, including what form the consultations took and when they took place.
- (c) If no consultation took place on the new guidelines with the accounting sector, please explain why no consultation took place.
- (d) Why does proportionate liability for professional services not appear in these guidelines?
- (e) What provision does the Department, as the policy agency, make to ensure that procurement officers in line Departments understand and apply the changes to the professional indemnity regime?
- (f) Has the Department sought input from the insurance sector to help with training and information sessions for procurement officers?
- (g) What training has been provided to agencies on these aspects of procurement management?

Answer:

The answers to the Senator's questions are as follows:

- (a) There was no specific consultation with business on the new *Commonwealth Procurement Guidelines*. Since the issue of the *Commonwealth Procurement Guidelines* in January 2005, Finance has met with many business representative bodies and individual firms to inform both them and itself about the operation of procurement policy. These consultations have been broadly reflected in the new guidelines.

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- (b) There was no specific consultation with the accounting sector. However, the Chief Finance Officers (CFOs) of Australian Government departments and agencies were consulted during the development of the Guidelines. A small advisory group of CFOs was consulted and a draft copy of the proposed new *Commonwealth Procurement Guidelines* was circulated for comment. Comments were taken into account and discussed, at times with CFOs who had responded and more broadly in the regular CFO Forum and Procurement Discussion Forum.
- (c) All agencies subject to the *Financial Management and Accountability Act 1997* (FMA Act) were provided the opportunity to comment on a draft of the Guidelines and responses. Of the 104 agencies subject to the FMA Act, 25 responded to the request for comment.
- (d) The *Commonwealth Procurement Guidelines* address the policy framework for Commonwealth procurement processes. Succinctly, the underlying principles are efficient, effective and ethical use of resources, to deliver value for money. The *Commonwealth Procurement Guidelines* address mandatory procedures for relevant procurements which include the threshold at which the mandatory procedures apply, the minimum number of days for responses to an approach to the market and the inability to accept late tenders.

Policies associated with liability, and a range of other matters such as insurance and indemnity, are related to the contractual conditions of a procurement, not to the process of procurement. To inform Commonwealth purchasers, the *Commonwealth Procurement Guidelines* provide information about risk management, but it does not provide details about approaches for identifying or addressing risk, including proportionate liability for professional services. These are matters for which Departments have responsibility.

- (e) As indicated in the last question, this is related to the contractual conditions of a procurement, not to the process of procurement. Proportionate liability is governed by state and territory legislation and is not a matter of Commonwealth procurement policy. Commonwealth contracts must comply with the legislation of the relevant jurisdiction. Although agencies are responsible for training their own staff, the Department of Finance and Deregulation (Finance) provides guidance, regular meetings and other support in relation to procurement policy. However, Finance does not have a role to provide support to agencies on contractual matters. Departments should obtain their own legal advice on such matters.
- (f) No.
- (g) Finance has provided no training in relation to proportionate liability or professional indemnity. Departments should obtain their own legal advice and, where appropriate, training on such matters.