

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
ATTORNEY-GENERAL'S PORTFOLIO

**Question No. 91**

**Senator Murray asked the following question at the hearing on 31 October 2005:**

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?

**The answer to the honourable senator's question is as follows:**

**Attorney-General's Department**

The Department has had administrative processes in place to ensure compliance with the Senate Order since the Spring sittings of 2001. These processes have progressively improved the Department's compliance, as foreshadowed by the Government's response to the order. Internal administrative processes have been refined over successive listings, largely based on feedback received or queries raised. There is one main point of contact within the Department to advise on compliance issues and administrative processes.

The content and useability of the Department of Finance and Administration's guidance has improved and the Department's guidance has stayed in line with Finance's guidance. Some interpretation issues arise relating to the application of Senate Order guidance to specific contracts, and these are addressed by the central point of contact.

Improved internal administrative processes and earlier quality assurance are two expected outcomes from an improved contract register, which is currently being implemented.

**Administrative Appeals Tribunal (AAT)**

Some initial difficulty identifying confidentiality categories but this has now been addressed. The Tribunal uses a standard contract that includes special clauses indicating to both contractors and Tribunal staff the requirements in relation to confidentiality.

**Australian Crime Commission (ACC)**

Nil.

**Australian Customs Service (ACS)**

Customs staff have at times had difficulty negotiating information out of confidentiality provisions within a contract. Due to commercial reality and/or operational need, the agency has accepted claims for confidentiality in some contracts, which do not comply with the Department of Finance and Administration guidance. These occurrences have been minimal and Customs has documented the reasons for non-compliance.

Customs raised this issue with the Australian National Audit Office in the course of the most recent audit of compliance with the Senate Order (No. 11 2005-2006, September 2005).

### **Australian Federal Police (AFP)**

The AFP, in line with other agencies, believes the reporting arrangements for Senate Order, annual reporting of consultancies, gazettals, etc, which are subject to different thresholds cause an added complexity to comply with the various reporting requirements. This recognises that the AFP, like a number of other agencies, operates in a devolved environment where contracts are entered into and managed by individual business units.

Furthermore, given the AFP's involvement in previous ANAO audits regarding this matter, it now liaises with the ANAO (as a matter of course) prior to posting its list, to ensure that it meets all the requirements of the Senate Order.

### **Australian Security Intelligence Organisation (ASIO)**

ASIO ensures its compliance through the Chief Executive's Instructions and the role of agency contracts adviser. ASIO does not foresee any problems with meeting its obligations under the Senate Order as required in accordance with the Chief Executive's Instructions.

### **Australian Transaction Reports and Analysis Centre (AUSTRAC)**

AUSTRAC has not experienced any problems in complying with the Senate Order.

### **CrimTrac**

CrimTrac has not experienced any difficulty in complying with the Senate Order. As a small agency with very few contracts over \$100,000 the task does not prove to be onerous.

### **Commonwealth Director of Public Prosecutions (CDPP)**

Compliance has involved manual processes. The CDPP is working towards the automatic production of its contract register by its FMIS.

### **Family Court of Australia**

Initial difficulties included the understanding of the confidentiality criteria by Industry. The Family Court of Australia addressed the issue by updating its tender documentation to clearly reflect the reporting requirements and changes to the procurement policy framework, including those resulting from the revised Commonwealth Procurement Guidelines.

### **Family Law Council**

The Family Law Council does not separately contract or purchase services. It is an advisory body that operates within the Department.

### **Office of Parliamentary Counsel (OPC)**

The Office of Parliamentary Counsel has had no problems in complying with the Senate Order.

### **Office of the Privacy Commissioner**

Over the last three reporting periods the Office has reported one contract relevant to the Senate Order. The Office has not had problems in complying with the Senate Order.