



THE SENATE

STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

27 April 2011

Senator the Hon John Hogg
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

Inquiry into the Department of Defence's request for tender for aviation contracts and associated issues

Pursuant to Senate standing order 38(7), I present to you an interim report of the Senate Foreign Affairs, Defence and Trade References Committee entitled Inquiry into the Department of Defence's request for tender for aviation contracts and associated issues—interim report.

On 24 November 2010, the Senate referred the following matters to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 1 May 2011:

- (a) all details concerning the Department of Defence's Request for Tender (AO/014/09) for the provision of air support to the Middle East Area of Operations, and other aviation contracts let by the Commonwealth, to ensure that value-for-money will be achieved, including:
 - (i) the adequacy of the due diligence process around the choice of potential suppliers from Standing Offer Panels and, more specifically, whether there was existing or any subsequently discovered evidence to warrant non-selection of any of the panel members, or whether the information obtained should have resulted in further inquiry and investigation,
 - (ii) the requirements of tenders and how effectively these will be met,
 - (iii) whether the preferred respondent decision was influenced by any vested interests, outside influences or any other perceived or actual conflicts of interest,

- (iv) the role of departmental personnel in the tender processes and their adherence to the Commonwealth's procurement policy, as well as any conflict of interest issues arising from the tender process and if any perceived or actual conflicts were declared,
 - (v) the methodology and adequacy of the decision processes and whether the services to be supplied in the contract were determined on the basis of objective and supportable, current and likely future requirements or were structured so as to unfairly advantage a particular respondent,
 - (vi) the integrity of governance around the development of Request for Tenders and the subsequent evaluation process, and whether the governance arrangements achieved their intended purposes, including the processes to manage perceived and actual conflicts of interests,
 - (vii) whether the governance arrangements were adequate and in fact did ensure that there were no perceived or actual conflicts of interest, for any people involved in the lead-up to the decision to tender, and during the tender review, assessment and supplier selection processes, and
 - (viii) whether the respondents, including directors and other key personnel (whether employees, agents or contractors nominated in the tender response) for the proposed contracts, are fit and proper for the purpose of contracting with the Commonwealth and the adequacy and methodology of this process; and
- (b) the adequateness and appropriateness of the processes in determining:
- (i) whether the respondents and associated companies supplying services to the respondents have the financial and commercial capacity to deliver the services submitted in their responses,
 - (ii) whether respondents have the capacity to deliver the services submitted in their responses to a quality and standard that meets the requirements of the Commonwealth and its regulatory authorities and, if so, whether the department was fully satisfied with the services provided by their appointed foreign carrier when they last provided such services (Request for Tender AO/014/09),
 - (iii) whether the department is in a position to guarantee the security status of all foreign personnel involved in the air-transportation of troops between mainland Australia and its deployment base adjacent to a war zone (Request for Tender AO/014/09),
 - (iv) whether issues relating to respondents, or their related companies of their contracts in South Africa are such as to warrant their exclusion for consideration on ethical or probity grounds (Request for Tender AO/014/09), and

- (v) any other matters relevant to the probity of the procurement processes and the respondents, including the appointment of a permanent and independent probity auditor to oversee the awarding of all aviation contracts by the Commonwealth.

Recently, the committee held hearings in Sydney and Canberra during which it requested additional information from a number of witnesses. The committee is of the view that sufficient time should be allowed for the witnesses to respond to the requests and for the committee to consider their responses. In light of these developments, the committee has agreed to present this interim report to the Senate and after further inquiry intends to table its final report on 23 June 2011.

Yours sincerely

Senator Helen Kroger
Committee Chair