

PROCEDURAL ORDERS OF CONTINUING EFFECT

Departmental and Agency Contracts

(1) There be laid on the table, by each minister in the Senate, in respect of each entity administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than 2 calendar months after the last day of the financial and calendar year, a letter of advice that:

(a) a list of contracts in accordance with paragraph (2) has been placed on the Internet, with access to the list through the entity's home page; and

(b) includes an assurance by the entity head that the listed contracts do not contain any inappropriate confidentiality provisions.

(1A) Order 1(b) takes effect from 1 July 2017.

(2) The list of contracts referred to in paragraph (1) indicate:

(a) each contract entered into by the entity which has not been fully performed or which has been entered into during the previous 12 months, and which provides for a consideration to the value of \$100 000 or more;

(b) the contractor, the amount of the consideration and the subject matter of each such contract, the commencement date of the contract, the duration of the contract, the relevant reporting period and the twelve-month period relating to the contract listings;

(c) whether each such contract contains provisions requiring the parties to maintain confidentiality of any of its provisions, or whether there are any other requirements of confidentiality, and a statement of the reasons for the confidentiality; and

(d) an estimate of the cost of complying with this order and a statement of the method used to make the estimate.

(2A) For the purposes of paragraph (1)(a) as it applies to procurement contracts only, access from an entity's home page may include a link to a complying report on AusTender. If an entity has contracts to report other than procurement contracts, there must be a dedicated link to a list of such contracts from an entity's home page in addition to any link to AusTender.

(3) If a list under paragraph (1) does not fully comply with the requirements of paragraph (2), the letter under paragraph (1) indicate the extent of, and reasons for, non-compliance, and when full compliance is expected to be achieved. Examples of non-compliance may include:

(a) the list is not up to date;

(b) not all relevant entities are included; and

(c) contracts all of which are confidential are not included.

(4) Where no contracts have been entered into by an entity, the letter under paragraph (1) is to advise accordingly.

(5) In respect of contracts identified as containing provisions of the kind referred to in paragraph (2)(c), the Auditor-General be requested to provide to the Senate, by not later than 30 September 2016 and 30 September 2018, a report indicating that the Auditor-General has examined a number of such contracts selected by the Auditor-General, and indicating whether any inappropriate use of such provisions was detected in that examination.

(6) In respect of letters including matter under paragraph (3), the Auditor-General be requested to indicate in a report under paragraph (5) that the Auditor-General has examined a number of contracts, selected by the Auditor-General, which have not been included in a list, and to indicate whether the contracts should be listed.

(7) The Finance and Public Administration References Committee consider the ongoing operation of the order and report on relevant developments from time to time.

(8) This order has effect on and after 1 July 2001.

(9) In this order:

“complying report on AusTender” means a report in respect of an individual entity that meets the requirements of this order in respect of procurement contracts;

“entity” means a Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013*, but does not include a trading Public Non-financial Corporation as classified by the Australian Bureau of Statistics;

“inappropriate confidentiality provision” means a confidentiality provision that is not in accordance with guidance issued by the Department of Finance on compliance with this order and approved by the Finance and Public Administration References Committee; and

“previous 12 months” means the period of 12 months ending on either 31 December or 30 June in any year, as the case may be.

(9A) Until 1 July 2017, entity is taken to mean a non-corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013*.

(20 June 2001 J.4358, amended 27 September 2001 J.4994, 18 June 2003 J.1881, 26 June 2003 J.2011, 4 December 2003 J.2851, 1 March 2007 J.3527, 14 May 2015 J.2601)