



STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM
JEREMY HANSON MLA (CHAIR), MICHAEL PETERSSON MLA (DEPUTY CHAIR), MARK PARTON MLA,
SUZANNE ORR MLA

Inquiry into referred 2016–17 Annual and Financial Reports
ANSWER TO QUESTION ON NOTICE

Asked by MR COE MLA:

Chief Minister, Treasury and Economic Development Directorate 2016/17 Annual Report, Procurement and Capital Works, Output 8.1

In relation to MOU with Unions ACT – Contracts and Complaints:

1. Did Unions ACT seek changes to any tenders or contracts in the last financial year?
 - a. If so, what were the changes sought?
 - b. If so, was the tenderer or contractors made aware that Unions ACT sought the changes?
 - i. If not, why not?
2. Please outline the process Unions ACT must follow in order to seek changes to tenders or contracts.
 - a. What changes to tenders or contracts can Unions ACT seek under the MOU?
 - b. What evidence do Unions ACT have to provide under the terms of the MOU to seek changes to tenders or contracts?
3. Can tenders or contractors be prevented from being awarded a tender or contract by the ACT Government if they do not comply with the criteria from Unions ACT under the terms of the MOU?
 - a. If so, please provide the total number of times this has occurred each financial year since the commencement of the MOU.
4. The Annual Report outlined on page 60 that the Territory received three complaints from 'employee representative organisations' about three contractors who held IRE certificates. Is this term a specific reference to Unions ACT?
 - a. If not, what or who is this term referencing?
 - b. Did Unions ACT initiate any of these complaints under the terms of the MOU?
5. Please outline the process Unions ACT must follow in order to seek changes to the MOU.

MR BARR MLA: The answer to the Member's question is as follows:–

1. Yes. –
 - a. School cleaning contracts were set to expire in June 2017 and action undertaken by United Voice against a school cleaning contractor in the Federal Court in relation to their noncompliance with industrial relation legislation reinforced the Directorate's need to consult with United Voice and Industry in the development of its approach to market and



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- need to further strengthen its school cleaning contracts to ensure that school cleaning was undertaken in a sustainable and ethical manner.
- b. The Education Directorate consulted with key stakeholders in relation to the development of new school cleaning contracts in 2017. United Voice along with the Canberra Business Chamber and Building Services Contractors Association of Australia (BSCCA) were consulted with, in relation to the new schools cleaning contracts. The documents released to market reflect the outcomes of the broad consultation.
2. There is no formal process for UnionsACT to seek changes to tenders or contracts. In practice, any industry stakeholder would contact the senior manager or senior executive with responsibility for the procurement to advise of their concerns with the tender or contract and offer clauses or conditions to be inserted and/or removed.
 - a. UnionsACT or other industry stakeholder can seek to change any tender or contract terms or conditions within their purview (for example, regarding worker safety, industrial relations, and employment conditions) by contacting the senior manager or senior executive with responsibility for the procurement. The procuring entity would assess whether or not to change the tender or contract terms taking all relevant information into account.
 - b. A reasoned argument is needed to support a case for change although the MOU does not go into such details.
 3. There is no requirement in tenders or contracts that reference the MOU. Tenders and contracts and might include a requirement that tenderers and contractors fulfil Ethical Suppliers Declaration and Industrial Relations and Employment certification obligations.
 - a. Compliance with the MOU is not assessed in tenders; rather, tenderers are asked to meet Ethical Suppliers Declaration and Industrial Relations and Employment certification obligations where applicable. These contain requirements that overlap with the MOU.
 4. No.
 - a. The term relates to any employee representative organisation.
 - b. Complaints were made under the Compliance with Industrial Relations and Employment Obligations (IRE) Strategy by UnionsACT-affiliated unions.
 5. If either party to the MOU wishes to have changes made to the MOU, they would contact the other party and discussions would ensue.

Approved for circulation to the Standing Committee on Economic Development and Tourism

Signature: 

Date: 19.12.17

By the Treasurer, Andrew Barr MLA