

~~COMMERCIAL IN CONFIDENCE~~

## ONLY TO BE USED IF THE ISSUE BECOMES PUBLIC

Is the Minister aware of reports that Sinclair Knight Mertz is being investigated for possible corrupt practices in the delivery of aid projects funded by the World Bank and Asian Development Bank?

- Yes – I am aware of the reports
- The company itself has surfaced these issues and is cooperating with the AFP, the World Bank and the Asian Development Bank to investigate them further has proactively approached
  - The company is to be commended for the open and cooperative way in which it is addressing these issues and I encourage them to continue to do so.

Are any Australian funds involved?

- There are no suggestions at this stage that any Australian aid funds are involved.
- SKM has assured AusAID that the potential irregularities relate only to projects funded by World Bank and the Asian Development Bank.
- AusAID is examining current and previous Australian projects delivered by SKM to confirm that no Australian aid funds are subject to similar risks

s 22 1(a)(ii)

### Background

Santo Rizzuto (CEO & managing Director SKM) rang AusAID (FADG program Effectiveness and Performance Division) on Thursday 30 August to inform AusAID of issues that they had uncovered in relation to World Bank and ADB funded projects that they have been involved in.

As part of the due diligence work around SKM's possible merger with a large US firm they have found a number of suspicious transactions/questionable payments stretching back over a number of years. The questionable payments relate to payments through agents that SKM has used in both Vietnam and the Philippines. The sum involved could be in the order of \$AUD1million. The main points SKM made in that meeting were:

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<sup>1</sup> From 1 January 2007- 31 August 2012.

- They have undertaken detailed investigations and they are confident that no AusAID funds are involved. They are also confident that there are no similar issues with any AusAID-funded projects they are delivering now or have delivered in the past.
- They have proactively informed the AFP that they may have some issues in relation to questionable payments and they will provide further information to the AFP in the next couple of days. They are also in the process of informing both the ADB and World Bank.

s 22 1(a)(ii)

s 22 1(a)(ii)

**Questions for SKM: [Pending discussion with SKM]**

1. Why did it take so long for the irregularities to surface?
2. Does this mean the internal audit procedures within SKM are less than vigilant?
3. Are we certain no Australian money is involved? If so how?
4. SKM is a major managing contractor for AusAID with millions of dollars being administered through the company – how confident is AusAID that all is OK in the other SKM administered projects?
5. Is this confirmation that managing contractors in charge of tens of millions of dollars are unable to properly and safely administer and track the money?
6. Do the irregularities mentioned include bribes or corruption?

Program Effectiveness and Performance Division

Senate Estimates – February 2013

Backpocket Brief

**WORLD BANK INVESTIGATIONS**

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Impact of World Bank Fraud Investigations on the Australian Aid Program

**Sinclair Knight Mertz**

Is AusAID aware of reports that SKM is being investigated for possible corrupt practices in the delivery of aid projects funded by the World Bank and Asian Development Bank?

- Yes – AusAID is aware of the reports.
- The company itself raised these issues and took the initiative to notify incidents of potential corruption to the World Bank, the Asian Development Bank and the Australian Federal Police.
- The company has proactively shared information with relevant parties/investigating authorities and we have been advised that it has put in place measures to protect against similar issues arising in future.
- The company is to be commended for the open and cooperative way in which it is addressing these issues.

Are any Australian funds involved?

- No.
- SKM has assured AusAID on several occasions that no Australian aid funds are involved.
- SKM has advised that the potential irregularities relate only to projects funded by World Bank and the Asian Development Bank.

s 22 1(a)(ii)

s 22 1(a)(ii)

**General Fraud Management**

What is AusAID doing to protect the Australian aid program from fraudulent practices by its delivery partners?

- Australia has a zero tolerance attitude to fraud and corruption in the aid program.
  - Every dollar lost to fraud is money that could have been spent helping people – building schools, feeding children, providing health services.
  - Where fraud is suspected or identified, AusAID will investigate the matter, where appropriate refer the matter to relevant prosecution authorities, and seek recovery for any misappropriated funds or assets.
- Australia has checks and balances in place to minimise the risk of fraud and to identify it if it does occur.
  - AusAID maintains an agency wide Fraud Control Plan which complies with the Commonwealth's mandatory Fraud Control Guidelines.
  - AusAID also maintains Risk and Fraud Management Plans at every Post which are updated annually.
  - AusAID's Internal Audit Branch reviews and audits the specific fraud control mechanisms of partners such as NGOs, commercial contractors and tertiary institutions to ensure that they comply with our fraud control and reporting requirements.
  - An annual audit program of major commercial contractors, Australian NGOs and tertiary institutions aims to ensure they comply with financial, contractual and activity management requirements, including fraud reporting and risk management.
  - Partner government systems are assessed in detail before AusAID funds are allowed to flow through them. Assistance is also provided to improve identified weaknesses.
- AusAID is also working closer with our trusted partners such as the World Bank, Asian Development Bank and other donors to raise awareness of the risk of fraud and corruption in the delivery of development assistance programs.

**BACKGROUND**

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**Sinclair Knight Merz**

Santo Rizzuto (CEO & Managing Director SKM) rang AusAID (FADG PEPD) on Thursday 30 August to inform AusAID of issues that they had uncovered in relation to World Bank and ADB funded projects that they have been involved in.

As part of the due diligence work around SKM's possible merger with a large US firm they found a number of suspicious transactions/questionable payments stretching back over a number of years. These payments were to agents that SKM has used in both Vietnam and the Philippines. The sum involved could be in the order of \$1m.

The main points SKM made during the call were:

- They have undertaken detailed investigations and are confident that no AusAID funds are involved. They are also confident that there are no similar issues with any AusAID-funded projects they are delivering now or have delivered in the past.
- They have proactively informed the AFP that they may have some issues in relation to questionable payments. They have also informed both the ADB and World Bank.

s 22 1(a)(ii)

SKM met with AusAID (FADG PEPD) on Friday 28 September 2012. SKM has undertaken to provide AusAID by 12 October further information on: the corrupt incidents; how SKM has determined that the incidents are limited to those involving Bank funds and not AusAID funds; and measures SKM is taking to prevent future occurrences.

s 22 1(a)(ii)



**Australian Government**

**AusAID**

## Minute

Subject World Bank conditional non-debarment of Sinclair Knight Merz Date 30/07/2013

For Peter Baxter, Director General

Through s 22 1(a)(ii)

cc

Clearance date 9 August so we can prepare the proposed letter to SKM.

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### Purpose

This minute is to provide you information on the conditional non-debarment of Sinclair Knight Merz (SKM) as announced by the World Bank on 24 July 2013 (25 July AEST).

### Recommendations

2. It is recommended that you:
  - note the content of this minute;
  - agree that the COO write to SKM advising that AusAID will review its relationship with SKM should SKM ultimately be debarred by the World Bank or other new information come to light;
  - note that PEPD has commenced a due diligence assessment of SKM under the new AusAID due diligence framework.

### Background

3. On 28 August 2012, SKM advised AusAID that it had concerns about likely corrupt payments made in the course of implementing World Bank (WB) and Asian Development Bank (ADB) projects in Vietnam, the Philippines, Sri Lanka and (possibly) Cambodia. SKM had contracts with agents that surreptitiously provided funds for the agents to make corrupt payments in procurement processes. AusAID strongly advised SKM to inform the banks, which SKM did by 1 September 2012.
4. SKM provided written assurance no AusAID funding/projects were involved and it had reported matters to the Australian Federal Police (AFP). The AFP confirms it has an active investigation: no other details are available.
5. The WB and ADB have been investigating and the WB announced its decision to not debar SKM on 24 July 2013. The ADB may make a decision soon.
6. s 22 1(a)(ii)

### Issues

7. s 22 1(a)(ii)

s 22 1(a)(ii)

If SKM fail to fulfil any obligations it will be immediately debarred and AusAID would review its relationship with SKM.

8. SKM says it has a draft letter from the ADB which indicates that ADB will not debar SKM. Following the WB decision, the ADB is expected to soon sign the letter to SKM formally advising ADB's decision.
9. The key announced conditions of the WB non-debarment, are that SKM continue to cooperate with the Bank and implement a more robust integrity compliance program. The WB in its 24 July announcement acknowledges that SKM took appropriate action "including a thorough internal investigation, and the dismissal of certain key individuals including senior managers connected with the illegitimate payments. The company also initiated an internal Appropriate Business Practices Policy, and took steps to improve its governance and compliance procedures."
10. Leonard McCarthy, VP of Integrity (INT) at the WB, said in announcing the decision "The World Bank took into account SKM's cooperation and willingness to provide evidence in support of further INT investigations. The outcome of this case introduces a new standard of compliance by a company that opted for self-policing in response to the discovery of misconduct in its own ranks. By promptly self-reporting, committing to corporate transparency and their enforcement of disciplinary action against those responsible, SKM has practically demonstrated how to confront wrongdoing and commit to doing business with integrity."
11. As SKM has not been debarred by the WB, AusAID has no grounds to terminate our agreements with SKM or prevent SKM from tendering for AusAID contracts. However, if SKM breach the conditions of their agreement and are debarred, AusAID would immediately review its relationship. Also, if other new information comes to light -- for example from the AFP investigation or from the ADB - AusAID would review the situation. We recommend the COO write to SKM advising we will review our relationship if new adverse information comes to light.
12. Separately, AusAID's new due diligence framework commenced operation on 1 July 2013. SKM is on the list of large contractors to be comprehensively assessed by PEPD. RMFC Branch made contact with SKM in late June 2013 about doing a due diligence assessment of SKM. We expect the assessment should be completed by the end of August 2013. This will provide our own independent assessment of SKM's practices including its internal integrity and compliance processes.

s 22 1(a)(ii)

13.



s 22 1(a)(ii)

Alistair Sherwin  
ADG  
Risk Management and Fraud Control Branch

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