



Home Office

Home Secretary
2 Marsham Street
London SW1P 4DF
www.homeoffice.gov.uk

Rt Hon Keith Vaz MP
Chair – Home Affairs
Select Committee
Committee House
Millbank
London
SW1A 0AA

18th August 2014

Dear Keith,

The arbitration over the termination of Raytheon Systems Ltd's contract to deliver e-Borders has now concluded.

The Tribunal's ruling does not pass any judgement on whether Raytheon had defaulted on the contract nor whether the Home Office was therefore justified in terminating it.

Instead the Tribunal looks at the way the contract had been managed by the UK Border Agency and finds the processes used in reaching a decision and carrying out the termination were flawed.

As a result, the Tribunal has awarded Raytheon Systems Limited:

- £49,980,807 for damages; and
- £9,600,851 for disputed contract change notices (this relates to contract changes where the parties could not, during the contract, agree the value).

As part of the arbitration process, the Home Office and Raytheon asked the Tribunal to agree the amount to be paid to Raytheon for the assets acquired through the contract between 2007 and 2010, which the Tribunal assessed as £126,013,801.

The Tribunal awarded interest on those sums (and letters of credit) at rates which will lead to a total cost of approximately £38 million.

The Treasury will work with the Home Office to make sure these costs are met without any impact on frontline services. We are looking carefully at the Tribunal's detailed conclusions to see if there are any grounds for challenging the Award.

The Government stands by the decision to end the e-Borders contract with Raytheon. This decision was, and remains, the most appropriate action to address the well-documented issues with the delivery and management of the programme.

The contract, signed in 2007 and worth around £750 million in total, was terminated by the Government in 2010, at which point it had cost the taxpayer £259.3 million including £195 million in supplier costs.

Key milestones had been missed and parts of the programme were running at least a year late. Raytheon Systems Ltd had been in breach of contract since 2009. Prolonged negotiations had taken place under the previous Government which had led nowhere.

The situation the Government inherited was therefore a mess with no attractive options.

All other alternatives available to the Government would have led to greater costs than the result of this Tribunal ruling. Continuing with the contract and trying to rectify the deep rooted problems was estimated at the time as likely to cost £97 million more than terminating it, even with today's settlement.

The Major Projects Review Group, a cross-government group run jointly by the Cabinet Office and HM Treasury, considered the Raytheon contract in July 2010. It established an expert panel of seven senior members, drawn from inside and outside government. The panel recommended that the contract should be terminated for cause immediately and the project re-scoped significantly.

After careful consideration of all the available advice, and discussions with senior officials, HMT and MPRG, I made a final decision to terminate the contract on the basis that Raytheon had not been compliant with its contractual obligations, and I no longer had confidence in Raytheon to deliver it.

While the Tribunal has not found against the decision to terminate the contract, it has raised concerns about how the Raytheon contract was managed by the UK Border Agency and the processes involved in deciding to terminate and how it was carried out.

The Permanent Secretary of the Home Office, Mark Sedwill, has therefore asked the National Audit Office to conduct a full review of e-Borders from its inception. I appreciate that both your own Home Affairs Committee and the Public Accounts Committee may wish to look into the UK Border Agency's handling of e-Borders and the Raytheon contract.

In addition, given the findings of the Tribunal, I have asked the Permanent Secretary to conduct a review of the advice provided to Ministers and the

manner in which the UK Border Agency managed the process of terminating the contract.

The Government has already taken steps to make sure this kind of thing should not happen again.

I have been very clear about how the UK Border Agency had been a troubled organisation, with performance that was not good enough. In March 2012, the Government created Border Force – to have a clear law enforcement focus and to re-establish border security as an urgent priority. And in March 2013 I abolished the remainder of the UK Border Agency, creating two, very distinct Directorates General – UK Visas and Immigration and Immigration Enforcement – giving them each a clear focus and bringing them under much closer Ministerial supervision.

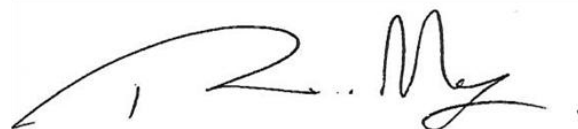
Since the Raytheon contract was signed, the Government has improved its approach to procurement and would never enter into such a contract today. Since 2010 the Government has adopted a policy of disaggregating larger, longer-term contracts worth more than £100m. This means the risk of failure by a private sector contractor is pooled and the taxpayer is protected.

Shortening the contract terms and limiting scope is ideal for IT contracts where the requirements and environment are subject to change. Smaller contracts are easier to define, manage performance and deliver to schedule. There is also greater resilience to contractual or supplier failure.

The original e-Borders requirement – to record Advanced Passenger Information for checking against terrorist and crime watchlists – is being delivered. The estimated proportion of passengers who travel to and from the UK, for whom we collect Advance Passenger Information on routes connected to Semaphore, is currently just over 80% – up considerably from just over 60% at the end of 2009. This is the highest for any European country according to the European Commission, and is amongst the best in the world.

Advance Passenger Information is a priority for border control and security, and already covers 95% of commercial air routes with the UK. The Home Office continues to drive that up, strengthening coverage in the maritime and rail sectors alongside air routes, including through new powers in the Immigration Act this year.

The Permanent Secretary at the Home Office is sending a copy of this letter, in parallel, to Rt Hon Margaret Hodge MP, chairman of the Committee of Public Accounts.

A handwritten signature in black ink, appearing to read 'Theresa May', with a large, sweeping flourish at the beginning.

The Rt. Hon Theresa May MP