



**PROTECTED
TRANSPORT
SYSTEMS** PTY LTD

25th March 2011

Minister for Defence; Deputy Leader of the House
The Hon S.F. Smith MP
PO Box 6022
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Mr Smith,

Thank you for your 27 January 2011 reply to our letter of the 29 September 2010 to you and the Chief of the Australian Defence Force regarding the PTS response to the Request for Proposals [RFP] for PMV-L121 Ph 4. The resulting award of three \$9 million prototyping contracts for two prototypes each to other proponents surprised PTS compared to its offer of six prototypes for \$8.2 million. The Minister for Defence Materiel, the Hon Jason Clare MP's Chief of Staff replied.

For clarity this letter together with copies of recent correspondence will be distributed to the original recipients. While PTS acknowledged that your 27 January 2011 letter finalises the matter from your viewpoint, we would make the following points.

It remains a strong possibility that the ADF's troops will be denied timely access to a vehicle that offers superior protection and performance at a competitive price. The P2 would have been built in a long standing Australian manufacturing facility from Australian materials and components; and supported throughout Australia by systems established for supporting the trucks that are also sold by manufacturing organization.

PTS does not question the processes used to reach this outcome. Our contention, that we maintain, was that the evaluation, on the points we listed, was erroneous which led to the improper conclusion. However if the process is not at fault, we could conclude that the project evaluators were in error and negligent.

This view is based on the information submitted to DMO requesting the decision (not the process) be reviewed.

Finally we would comment on the processes used by DMO to manage major projects. If they are without fault why have there been so many failures judged against delivery performance, initial cost estimates and timetable? It is of concern that DMO's focus on avoiding the taint of error precludes the possibility of DMO learning from their mistakes.

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There are now a significant number of instances where acquisition failure has seriously reduced the capability of the Australian Defence Force.

Directors of PTS would welcome the opportunity to provide further information or to respond to any questions.

Yours sincerely,

Derek Andrews
Executive Chairman

Home office: 07 3376 2426
Mobile: 0417006653
Email: dgandrew@bigpond.net.au

Copies to:

The Chief of the Australian Defence Force;
The Minister for Defence Materiel;
The Hon. Senator D. Johnson

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**Office of
The Hon Jason Clare MP
Minister for Defence Materiel**

27 JAN 2011

Mr Derek Andrews
Executive Chairman
Protected Transport Systems Pty Ltd
GPO Box 514
BRISBANE QLD 4001

Dear Mr Andrews

Thank you for your letter of 29 September 2010 to the Minister for Defence, the Hon Stephen Smith MP, concerning the process and outcome of the LAND 121 Phase 4 Request for Proposal Seeking a Protected Mobility Vehicle – Light Capability that is Manufactured and Supported in Australia (MSA) for the Australian Defence Force. This matter falls within the portfolio responsibilities of the Minister for Defence Materiel, the Hon Jason Clare MP, who has asked me to respond on his behalf. The delay in responding is regretted.

I acknowledge the hard work and commitment of your team in responding to the Request for Proposal. I also want to assure you that the Minister takes any industry concerns about Commonwealth procurement processes very seriously.

The Request for Proposal was a critical early activity, designed to shortlist companies to proceed to further stages in the overall procurement process for the MSA option, should Government proceed with that option. Although a request for proposal and not a request for tender, it was still a Commonwealth procurement process governed by strict process rules and the requirements of fairness and probity.

I note that Protected Transport Systems Pty Ltd has submitted a number of written complaints in respect of the procurement process and assessed the complaints handling process offered by Defence Materiel Organisation, namely two internal investigations, including one which was completely independent of the project. I am advised that both investigations found that the evaluation was conducted in accordance with the published process and that all respondents were treated fairly.

In your letter you make it clear that you do not accept the outcome of the investigations or many of their findings. Your letter outlines your dissatisfaction with the way in which the Request for Proposal was set up and conducted, and you consider that Protected Transport Systems Pty Ltd should have been short listed and not excluded from the next stage of the procurement process. You have requested the Minister to intervene to reverse this outcome so that Protected Transport Systems Pty Ltd participates in the current MSA activities.

Legal and policy constraints restrict any Minister from intervening in this way. Despite your dissatisfaction, there is nothing to indicate that Commonwealth officers have failed to carry out their procurement responsibilities properly so as to justify overriding the process and its outcome. I am advised that to intervene in these circumstances would not be lawful or proper, would be inconsistent with the published procurement process and would be unfair not only to the short listed MSA participants, but also to the other unsuccessful Request for Proposal respondents.

I appreciate your interest in the defence of our nation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Fankhauser', with a long horizontal flourish extending to the right.

DANIEL FANKHAUSER
CHIEF OF STAFF



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30 November 2010

Minister for Defence; Deputy Leader of the House
The Hon S. F. Smith MP
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2000

Dear Mr. Smith

On the 29 September 2010, Protected Transport Systems [PTS] wrote to you and the Chief of the Australian Defence Force regarding its response to the Request for Proposals [RFP] for PMV-L121 Ph 4. The resulting award of three \$9 million prototyping contracts for two prototypes each to other proponents surprised PTS compared to its offer of six prototypes for \$8.2 million.

It is two months now since we wrote to you and the CDF in connection with this matter and it is disappointing to note that no response has been received from either your office or the CDF.

Our attendance at the Land Warfare Conference in Brisbane has also reinforced our view that all the competitor vehicles on show were to varying degrees deficient against the stated requirements and most certainly offered lower levels of blast protection than the PTS vehicle, the Protector 2 and it will be interesting to see whether all the vehicles are delivered on time by February 23, 2010.

It remains a strong possibility that the ADF's troops will be denied timely access to a vehicle that offers superior protection and performance at a competitive price. The P2 would be built in a long standing Australian manufacturing facility from Australian materials and components; and supported throughout Australia by systems established for supporting the trucks that are also sold by the manufacturing organization.

In the interim period since our last letter, the right hand drive prototype P2 [US fit out] has been completed and is undergoing testing. Hull blast test results have been completed at the Aberdeen testing facility in the US which proved similar protection to the Bushmaster, which was also designed by PTS Technical Director Mr. Jacobus [Koos] de Wet.

In the earlier letter, PTS again challenged DMO to have the Protector 2 independently compared with its three short listed candidates by a recognized, independent expert or experts to confirm that the P2 is highly competitive in all respects. We repeat this challenge again and suggest that the proposed JLTV contenders be included in such an independent comparison as well.

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Because of the ramifications of the decision of DMO to exclude PTS Pty Ltd's offer, PTS intends to pursue this matter with the Auditor General and to also have this matter subjected to Parliament Senate Inquiry.

Following the DMO complaints procedure would next have PTS going to the Ombudsman or using the legal processes, which could include the Appeals Tribunal or Judicial Review. PTS requests that instead, the Minister intervenes to rectify this situation by including PTS in the prototyping for Land 121 Ph 4.

Directors of PTS would welcome the opportunity to provide further information or to discuss any questions.

Yours sincerely

Derek Andrews

Executive Chairman

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