

3rd August 2011

Rt Hon Keith Vaz MP
Chairman of the Home Affairs Committee
House of Commons
7 Millbank
London
SW1P 3JA

Dear Mr Vaz

Request for information on the e-Borders Programme

Thank you for your letter dated 22 July 2011.

I welcome the opportunity to assist the Home Affairs Committee with its inquiries regarding the e-Borders Programme. I must, however, preface my response by confirming that (as I believe you are already aware) we are presently in arbitration with the Home Secretary regarding her decision to terminate Raytheon's involvement in the e-Borders Programme. As you will appreciate, the arbitration process imposes certain duties of confidentiality upon me and my company. In addition, our e-Borders contract itself contains confidentiality provisions which arguably survive termination. I trust, therefore, that you will understand that there are some constraints upon the information that I am at liberty to share with you.

First, I would like to clarify that our contract was not "suspended" as your letter suggests. In fact, our contract was terminated by the Home Secretary in July 2010 on the grounds that Raytheon was allegedly in material default of its contractual obligations. We vigorously refute that contention. We maintain that the purported termination was unlawful and that Raytheon is entitled to recover substantial damages for wrongful termination. We have made counterclaims in the arbitration in excess of £500 million in respect of these matters.

As regards the status of the e-Borders Programme at the point of termination, the position is as follows:

1. The e-Borders Programme was split into four separate phases, known as "Release Projects".
2. Release Project 1 increased the passenger data collected from carriers via an enhancement to the old Semaphore system. Release Project 1 was substantively completed in May 2009. The new capability which it delivered is still being used today to protect the UK borders.
3. Raytheon also designed, developed and tested much of Release Project 2 (by far and away the largest part of the Programme). Release Project 2 built upon and augmented the functionality provided by Release Project 1. A substantial proportion of Release Project 2 had been completed as at the date of termination in July 2010. However, Release Project 2 was not fully completed by the time of termination, because of various breaches of contract by the UKBA which are the subject of the arbitration and because the UKBA was never able to settle upon the scope of its requirements for that phase of the Programme.

4. Work on Release Project 3 was also proceeding, but it was still at the design phase when the contract was terminated in July 2010.
5. Prior to termination in July 2010, the parties had, in substance, agreed to a substantial restructuring of the Programme, by way of a tri-partite deal among the UKBA, Raytheon and Fujitsu. The aim of the restructuring was to build upon existing functionality. The restructuring would have de-scoped part of Release Project 3 from Raytheon's contract and awarded it to Fujitsu. The UKBA and (initially) the Home Secretary backed the restructuring solution. However, the Home Secretary ultimately decided not to proceed with it and instead purported to terminate our contract for default, without prior consultation with Raytheon or, in our view, any proper justification.

I am not at liberty to provide you with more precise details as to the functionality of the various Release Projects, or of the re-configured solution that was agreed in the restructuring negotiations, because of the confidentiality and security restrictions applicable to that material.

As to your question regarding the achievement of the Government's targets, the position is as follows:

1. Our contract with the Home Secretary was not based on Government targets, as such. Raytheon was required to deliver the various Release Projects in accordance with the terms of the contract. We had limited visibility of any targets or policy objectives that the Government may have had for the e-Borders Programme, save to the extent that they were reflected in the terms of our contract.
2. We were aware that the Home Secretary had a target of processing 100 million passengers annually. The system that Raytheon delivered enabled the Home Secretary to meet that target - see the response to Parliamentary Question 312901 from the then Immigration Minister, Rt. Hon. Phil Woolas MP on 27 January 2010 (a copy of which is enclosed with this letter).
3. In addition, during the course of the Programme, a ministerial commitment was given to open the National Borders Targeting Centre. We were able to stand up that facility in accordance with that commitment (see the enclosed 11 March 2010 Home Office press release). The National Borders Targeting Centre is still being used today (as set out in the Home Office press release of 7 April 2011, enclosed).
4. Aside from that, the Government's targets and objectives changed repeatedly throughout the course of the Programme. Again, these matters are the subject of the arbitration and I cannot go into the details. It is, however, a matter of public record that one of the many problems that the Programme faced concerned the legality of collecting data under EU/data protection laws. The European Commission's Ruling in December 2009 effectively gave passengers an opt-out from providing essential data to the e-Borders system. The impact on the e-Borders Programme was significant, not least because it undermined the overall value of the e-Borders Programme to the UK Government compared with the benefits it expected to derive when the e-Borders Programme was first conceived.
5. It is also apparent that the Government's targets and objectives for the e-Borders Programme changed significantly following the election of the Coalition Government in May 2010 and the establishment of the Major Project Review Group ("MPRG") to review major IT contracts. At that time, Raytheon was involved in detailed negotiations with the UKBA regarding the restructuring of the e-Borders Programme, referred to above. The substance of that restructuring was agreed by the beginning of July 2010 and Raytheon was ready to implement it. However, instead of proceeding with that solution, the Home Secretary ultimately decided (based upon recommendations from the MPRG) to terminate our contract, reduce the scope of the Programme and engage an alternative service provider (Serco).
6. The circumstances surrounding the Home Secretary's decision to terminate Raytheon's contract and engage a replacement service provider in its place are the heart of the arbitration. Without going into the details, it is Raytheon's position that that decision was unjustified and unlawful, not

least because the delays and other problems on the e-Borders Programme were attributable to breaches of contract and serious mismanagement of the Programme by the UKBA, and not to any fault on Raytheon's part.

I trust that the above response is of assistance to the Committee.

Yours sincerely

A handwritten signature in black ink, reading "Robert Delorge". The signature is written in a cursive style with a large, prominent 'R' and 'D'.

Robert M Delorge