

~~HONOURS IN CONFIDENCE~~

DEPARTMENT OF THE PRIME MINISTER AND CABINET

Ref: B09/1640

To: Cabinet Secretary (for decision)

CABSEC
s22PM&C
Secretary
Ms Beauchamp
Ms Lynch
Mr RushRe: **Humanitarian Overseas Service Medal: Assessment of Australian contingent to GE Infrastructure for 'Indian Ocean' operation**PMO
s22

File

Urgency:	Timing:	Initiation:
Low		Department

File

Recommendations: That you

1. Agree to recommend to the Governor-General that the Australian contingent to the humanitarian operation of GE Infrastructure, Water & Process Technologies be determined as an eligible organisation for the *Humanitarian Overseas Service Medal* (HOSM) with clasp 'Indian Ocean'.
2. Sign (BUT DO NOT DATE) the attached draft determination for the Governor-General's approval, and sign and date the covering letter.

AGREED/NOT AGREED

SIGNED/NOT SIGNED

Joe Ludwig

Date:

1/12/09

PM&C ASSESSMENT:

The reasons for the recommendations presented are:

- Recommendation 1 – a group of Australians working with the tsunami relief operation of GE Infrastructure, Water & Process Technologies (GE) in Sumatra in 2005 has been assessed as satisfying the requirements for determination as an eligible organisation for the HOSM.
- Recommendation 2 – the Governor-General determines organisations as eligible for the HOSM by written instrument, on your recommendation.

If accepted you may see:

- The Governor-General consider your recommendation to declare the GE group an eligible organisation for the HOSM with clasp 'Indian Ocean'.

The initiatives may be considered successful when the following is observed:

- The Governor-General declares the GE group an eligible organisation for the HOSM.
- Members of the GE group with qualifying service apply for, and are awarded, the HOSM with clasp 'Indian Ocean' for their tsunami relief humanitarian service.

The following sensitivities should be noted:

- The GE group's only Australian connection lies in the citizenship of s22 Australian members, and contact with other Australian humanitarian operations in Sumatra. The GE group does not conform to the usual model of groups assessed for the HOSM.
- However, the eligibility of this group is not prohibited by the regulations governing the HOSM, and would be in keeping with the purpose of the award (see paras 4-8, pages 2-3).

There are no financial implications of these recommendations.

Approved	Contact officer: s22	
Peter Rush Assistant Secretary Awards and Culture Branch 17 November 2009	Consultation: Australian Army, Youth Off The Streets QA:s22	

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KEY MATTERS

1. The *Humanitarian Overseas Service Medal (2004 Indian Ocean Tsunami and Other Natural Disasters Relief) Regulations 2005* ('the 2005 Regulations') provide that the Governor-General may determine eligible organisations for this award, on the recommendation of the minister responsible for the administration of the Australian honours system.
 - (a) You have responsibility for honours matters within the Prime Minister's portfolio.
2. We have assessed the activities of a group of s22 Australians who worked with the tsunami relief operations of GE Infrastructure, Water & Process Technologies ('GE', a subsidiary of the General Electric multinational corporation) as satisfying the requirements for determination as an eligible organisation for the *Humanitarian Overseas Service Medal* (HOSM) with clasp 'Indian Ocean'.
 - (a) If you agree with this assessment, you should recommend to the Governor-General that she determine the "Australian contingent to the humanitarian relief operation of GE Infrastructure, Water & Process Technologies" an eligible organisation for the HOSM 'Indian Ocean' by signing the draft letter and signing (but not dating) the attached draft declaration (Attachment A).

PM&C ANALYSIS

3. In April 2005, s22 sought HOSM eligibility for s22 (all Australian citizens) as members of GE's water purification operation in Banda Aceh following the Boxing Day 2004 Indian Ocean tsunami. GE's team had 12 members.
4. The service of the Australian members of the GE operation meets the requirements for location, dates, duration and purpose for the HOSM 'Indian Ocean', but s22 cannot qualify for the award unless their group is determined as eligible.
 - (a) The organisations that are normally determined as eligible for HOSM purposes fall broadly into one or more of the following categories:
 - (i) Australian non-government aid organisations or charities;
 - (ii) Australian Government agencies;
 - (iii) Australian contingents to foreign non-government or government agencies; and
 - (iv) Australian contingents to international organisations (such as the United Nations).
 - (b) Foreign citizens can qualify for the HOSM, but normally only as a member of either an Australian organisation or an Australian contingent to a foreign or international organisation.
 - (c) Commercial contractors are normally excluded from eligibility for the HOSM on the basis that their primary motivation for providing services in a disaster zone is the promise of a favourable commercial outcome, rather than altruism (though that may play a part).
5. In October 2005, we declined to recommend that GE be determined as eligible because its Australian connection was limited to:
 - (a) citizenship; and
 - (b) contact only with Australian aid projects in Banda Aceh.

We also had concerns about determining a foreign for-profit corporation as a humanitarian aid organisation.

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6. The HOSM regulations prescribe certain types of organisations which can be determined eligible, but they also allow virtually any class of persons to be determined to be an eligible group (see paragraph (c) of the definition of 'organisation' in the HOSM regulations at Attachment D).
 - (a) While the regulations technically allow this group to be determined as eligible, the GE group was not recommended for eligibility because this group did not conform to the usual model of a humanitarian aid organisation.
 - (b) The fact that the GE Group delivered humanitarian service is not in question, nor is there any suggestion that its conduct renders that service unworthy of recognition in any way.
7. In June 2009, s22 provided a testimonial from the s22 (Attachment B) and sought re-assessment of the GE group for the HOSM.
 - (a) Our re-assessment is not based on the content of the testimonial. Receipt of the testimonial has prompted us to reconsider the application of policy and the regulations to this group.
8. We now consider that it would be acceptable to determine the GE group as eligible by applying paragraph (c) of the definition of 'organisation', as a means to accommodate unforeseen circumstances.
 - (a) The exclusion of commercial organisations is based on assumptions about an organisation's motivation. While GE is a for-profit corporation, its operation in Banda Aceh was altruistic and not-for-profit.
 - (b) GE's operation in Banda Aceh was not typical of humanitarian relief delivery, but the activities of the s22 Australians involved in it did meet the requirements for the HOSM and were in the spirit of its purpose.
 - (i) The purpose of operations for the HOSM 'Indian Ocean' is "minimising the distress suffered by people affected by the tsunami and sustaining their life and dignity" (see paragraph 3(1)(a)(ii) of the regulations at Attachment E).

BACKGROUND

9. Following the Boxing Day 2004 Indian Ocean tsunami, s22 worked, as part of an international team of 12, for GE in Banda Aceh. They delivered, set up and operated two water purification plants donated by GE. The donation was solicited by a US non-government philanthropic organisation, Assist International.
10. Further background about the HOSM, eligible organisations and the assessment of the GE group is at Attachment C.

Attachments:

- A. Draft Response and Instrument
- B. Testimonial s22
- C. Further Background
- D. *Humanitarian Overseas Service Medal Regulations (1999)*
- E. *Humanitarian Overseas Service Medal (2004 Indian Ocean Tsunami and Other Natural Disasters Relief) Regulations 2005*

ATTACHMENT C**FURTHER BACKGROUND****HOSM Regulations and the treatment of organisations**

The *Humanitarian Overseas Service Medal* (HOSM) was created by Letters Patent issued by Her Majesty The Queen in 1999. Although it was intended that the HOSM be able to be awarded for humanitarian relief operations following natural disasters, the regulations governing the award ('the 1999 Regulations' at [Attachment D](#)) were framed with the humanitarian crises of armed conflict in mind. Following the Boxing Day 2004 Indian Ocean tsunami, it was realised that natural disaster relief operations could not meet the hazard element required by the 1999 Regulations. This was rectified through the establishment of the *Humanitarian Overseas Service Medal (2004 Indian Ocean Tsunami and Other Natural Disasters Relief) Regulations 2005* ('the 2005 Regulations' at [Attachment E](#)).

Eligibility for the HOSM with clasp 'Indian Ocean' is governed by the 2005 Regulations. 'Eligible organisation' is defined, in part, to mean "an organisation specified in a Determination under subregulation 3(2)". Subregulation 3(2) simply provides that the Governor-General may, on the recommendation of the Minister, determine that an organisation is an eligible organisation for the purpose of subregulation 3(1). Subregulation 3(1) establishes the parameters for eligibility for the 'Indian Ocean' clasp. 'Organisation' is not defined in the 2005 Regulations but subregulation 2(2) provides that "Unless the contrary intention appears, terms used in these Regulations and in the Humanitarian Overseas Service Medal Regulations [i.e. the 1999 Regulations] have the same meaning in these Regulations as they have in those Regulations".

The 1999 Regulations define 'organisation' as follows:

- (a) a class of persons included in, or operating under the auspices of:
 - (i) an Australian government organisation; or
 - (ii) an Australian non-government organisation; or
 - (iii) a foreign government organisation; or
 - (iv) a foreign non-government organisation; or
 - (v) an international organisation; or
 - (vi) an international non-government organisation; or
- (b) a contingent to, or a component of, an organisation mentioned in subparagraphs (a)(i), (ii), (iii), (iv), (v) and (vi); or
- (c) a class of persons declared by the Governor-General, in writing, on the recommendation of the Minister, to be an organisation for the purposes of these Regulations.

Table: Examples of eligible organisations, by definition

<i>Definition</i>	<i>Example (and an operation for which its members are eligible)</i>
(a)(i)	Department of Foreign Affairs and Trade – HOSM "Indian Ocean"
(a)(ii)	CARE Australia – HOSM "Mozambique"
(a)(iii)	East Timor Ambulance Service (declared as "Australian contingent to ...", under paragraph (b)) – HOSM "East Timor"
(a)(iv)	Oxfam Great Britain (declared as "Australian contingent to ...", under paragraph (b)) – HOSM "Pakistan"
(a)(v)	United Nations organisations (declared as "Australian contingent to ...", under paragraph (b)) – HOSM "Iraq"
(a)(vi)	International Committee of the Red Cross (declared as "Australian contingent to ...", under paragraph (b)) – HOSM "Cambodia"
(b)	(see above)
(c)	N/A – none have been declared that did not meet one of the other definitions.

The HOSM is analogous to the military *Australian Service Medal* (ASM) and the *Police Overseas Service Medal* (POSM) in the Australian honours system. Clasps to the ASM and POSM are declared in respect of particular military or police deployments overseas with activities that meet specified requirements for purpose and hazard. It is the execution of the organisation's objectives which is medal-worthy, so personnel who meet time and place criteria for participation in those deployments may be awarded the ASM or POSM, as the case may be.

The HOSM is similarly awarded for the merit-worthiness of the organisation's objectives. The HOSM is based on the premise that Australian organisations that send their members overseas to deliver emergency humanitarian assistance projects in hazardous environments are worthy of recognition, through medals to their members. The members themselves do not need to demonstrate individual merit. To qualify for the award, the members simply need to fulfil place and time criteria, which place them within a class of meritorious service.

Being a member of an eligible organisation is also part of the qualifying criteria for the HOSM. The authoritative confirmation of an applicant's claims by the organisation with which the applicant served provides a robust assessment process and enhances the integrity of the HOSM. Accordingly, freelance or independent humanitarian service cannot qualify.

The General Electric (GE) operation in Banda Aceh

Following the tsunami on 26 December 2004, the US non-government organisation Assist International sought a donor of water purification equipment for the people of Banda Aceh. GE not only donated the equipment (two purification plants) but also power generators, parts and consumables, and personnel and transport to deliver, set up and run them.

On arrival in Sumatra, GE gave the water treatment plants to PLN, the Indonesian state utility company. GE employees set up and ran the plants for the initial period of the emergency.

Some non-government humanitarian organisations were amongst those who used the GE water supply, including an orphanage established and supported by Australian group, Youth Off The Streets (YOTS).

The Australian Defence Force (ADF) provided heavy transport and lifting equipment, personnel and expertise to assist with the delivery and set up of the plants, and apparently made incidental use of the GE water supply, even though they had their own clean water supply from their own purification equipment.

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Their location and

duration of service are within the requirements for the HOSM 'Indian Ocean'. Their service can be validated by GE.

There is no suggestion that the GE group's conduct renders the service of its members unworthy of recognition in any way. In fact, the GE operation has received official recognition from the US and, possibly, Indonesia. The US Secretary of State's 2007 Award for Corporate Excellence was awarded to GE for its post-tsunami relief efforts. GE has also issued a media release reporting that the Indonesian President gave an award to GE in recognition of its post-tsunami operations, but we have been unable to verify this.

Assessment of the GE group

s22 has been pursuing eligibility for the HOSM s22 service in Banda Aceh since 19 April 2005. The regulations for the HOSM 'Indian Ocean' were gazetted on 30 May 2005.

From the outset, the service of the Australian members of the GE group in Banda Aceh has been assessed as meeting the requirements for location, dates, duration and purpose for the HOSM 'Indian Ocean'. The stumbling block has been the status of the organisation. We did not consider that GE's purpose was to fulfil the objectives of any Australian organisation. s22 s22 were hired by an international corporation to assist with the delivery of a gesture of good corporate citizenship. The only Australian element of the operation was the nationality of s22 of its contracted employees and co-operation with some other Australian organisations in Banda Aceh.

The Australian connection

Our initial conclusion was that there was insufficient connection to Australia to justify recognition of the GE group's operation. We explored whether the GE group's connection with the YOTS operation could form the basis of eligibility and advised s22 that, if he was able to provide information to this end, we would reconsider the assessment. We now consider that it would not be acceptable to 'deem' persons to be members of an eligible organisation when their involvement is limited to co-operation (however close it may be), rather than participation as a member.

In reconsidering this issue, we realised that we were focused on fitting GE into definitions (a) and (b) of an organisation (see page 1 of this Attachment) and ignoring definition (c). Applying definition (c) is appropriate where an organisation does not meet (a) or (b), but the organisation's operation is in keeping with the purpose of the award. Definition (c) allows for unforeseen circumstances but not complete discretion. We consider that there are a number of factors that, together, justify applying (c) to the GE group (but which, by themselves, would not):

- ADF members performing the same work in Banda Aceh (water purification and delivery) are eligible for the HOSM 'Indian Ocean'.
- The GE group's work meets the purpose of the HOSM 'Indian Ocean'.
- Two Australian organisations which the GE group supported, or with which they co-operated, have provided positive testimonials.
- The s22 Australians were deployed from a place of safety into the disaster zone and functioned as a group.
- The Australian response to the tsunami involved a very large deployment of Australians into a natural disaster zone – thousands of relief workers were involved. The unique nature of this disaster has been used to justify the exceptional treatment of other groups.

Examples of other groups which might not ordinarily have been considered for the HOSM but for the extraordinary scale and nature of the tsunami relief operation include:

- Australia Sri Lanka Medical Aid Team – a group of Victorian doctors of Sri Lankan origin who travelled back to Sri Lanka to provide post-tsunami emergency medical assistance. This was essentially a group of individuals acting spontaneously. However, the doctors liaised with the Victorian Government's official medical aid team in Sri Lanka, and was known to the person in the Victorian Premier's department who co-ordinated the official team. The Victorian Government agreed to validate the service of the members and, on this basis, they were recognised as a group for HOSM purposes.
- Australian Volunteers International Maldives Short Term Teacher Project – Australian teachers deployed to post-tsunami Maldives to provide teaching relief. This would usually be viewed as development aid, and not eligible for the HOSM but, in this case, teachers were counselling traumatised children and providing more generally for their welfare, and thus met the purpose of the award.

We also considered whether it was justifiable to recognise the Australians in the GE group and not the s22 other foreign nationals. We realised that we already do this when assessing UN-related service – we recognise Australians who are members of, or contracted by, the UN in overseas humanitarian relief operations without considering the eligibility of foreign nationals working alongside them. It is accepted that it is inappropriate for the Australian Government to award medals for humanitarian service overseas to foreigners working for an international or foreign organisation. Limiting eligibility in the GE group to the contracted Australians involved in the operation would be the same as an accepted existing practice.

Commercial or not?

In reviewing this matter in detail, we concluded that we should be looking at the GE operation in Banda Aceh in isolation from the multinational GE parent corporation. The GE operation in Banda Aceh was clearly an altruistic act, not motivated by profit. If this separation is accepted, the concerns about the commercial nature of the organisation are negated.

Conclusion

If the s22 Australians are viewed as an Australian contingent to the non-commercial set up and operation of water purification equipment donated by GE, and taking into consideration the extraordinary scale and nature of the tsunami relief operation, it is acceptable to treat them as an exceptional case and determine them as an eligible organisation, under paragraph (c) of the HOSM definition of 'organisation'. We propose the group be determined as eligible in the following form:

Australian contingent to the humanitarian relief operation of GE Infrastructure, Water & Process Technologies.