



Parliament of Australia
Parliamentary Budget Office

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Senator Trish Crossin
Chair
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Senator Crossin

I am writing in relation to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the Freedom of Information Amendment (Parliamentary Budget Office) Bill 2012.

Under the *Parliamentary Service Act 1999* the Parliamentary Budget Office (PBO), at the request of Senators and Members, is able to prepare confidential budget analyses over the entire course of the electoral cycle. Outside of the caretaker period for a general election, the PBO is also able to prepare costings of policy proposals on a confidential basis.

To facilitate its role in undertaking this confidential work for Senators and Members, the PBO is an exempt agency under the *Freedom of Information Act 1982* (FOI Act). Without this exemption, the PBO's effectiveness as a source of confidential budget analyses and policy costings would be seriously compromised.

The proposed amendments to the FOI Act extend this logic to also provide an exemption under the FOI Act for information held by departments and agencies that relates to a confidential request to the PBO. The PBO is heavily reliant on other departments and agencies for information to use in its budget analyses and policy costings. Of necessity there will be regular exchanges of information between the PBO and other departments and agencies that relate to confidential requests to the PBO.

The recently-finalised *Memorandum of Understanding between the Parliamentary Budget Officer and the Heads of Commonwealth Bodies in relation to the Provision of Information and Documents* places strict confidentiality obligations on the heads of Commonwealth bodies in relation to confidential information requests to the PBO. The Government has also issued *Australian Government Protocols Governing the Engagement between Commonwealth Bodies and the Parliamentary Budget Officer* that further bolster the confidentiality of information relating to confidential requests to the PBO.

However, as the Attorney-General indicates in her Explanatory Memorandum, unless the FOI Act is amended as proposed, information held by other departments and agencies that relates to confidential requests to the PBO may not be protected from release under the FOI Act. The release of such information would be inconsistent with the intent of the legislation giving effect to the operations of the PBO. Moreover, the possibility of the release of such information represents a potentially serious barrier to the use of the PBO's services by Senators and Members.

It is important that this potentially serious barrier to the use of the PBO's services is removed. Accordingly, I consider that it is prudent to amend the FOI Act as proposed.

Yours sincerely

Phil Bowen

24 October 2012