

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office
(Budget Estimates 2 June 2005)

Outcome 2

Topic: Legal services expenditure

Written Question on Notice: Supp LG11

Senator Ludwig asked:

1. What amount did the Agency spend during the financial year 2004/2005 on outsourced legal practitioners (including private firms, individuals, the Australian Government Solicitor, and any others)?

Answer:

It is expected that approximately \$28.5M will be spent during 2004/2005. See Attachment A for details of expenditure for the period 1 July 2004 to 10 June 2005.

2. What was the budgeted amount for outsourced legal practitioners in 2004/2005?

Answer:

The overall budget for all external legal expenditure for 2004/2005 is \$38.8M. This includes amounts for outsourced legal practitioners, legal fees and costs, compensation costs, legal assistance and test case costs. Within this budget there is no specifically identified budget for outsourced legal practitioners.

3. What amount did the Agency spend on internal legal services? (Provide an estimate if exact amount is unavailable.)

Answer:

Expenditure on the in-house legal area is estimated to be \$22M for 2004/2005. This includes all salary related costs such as superannuation and other apportioned costs such as accommodation and IT support. Other areas in the Tax Office, such as Tax Counsel Network, provide interpretive advice relating to the application of tax law; others carry out para-legal activities in relation to debt collection. Expenditure in this regard is not recorded as legal services expenditure. If the expenditure for these areas were to be included, the total internal legal services expenditure for the Tax Office would be in the order of \$54M.

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4. Does the Agency have an in-house legal section? If so, what was the 2004/2005 actual cost of this section? What was the budgeted amount for this section in 2004/2005? What is the budget amount for this section in 2005/2006?

Answer:

The Tax Office has an in-house legal section and the anticipated cost for 2004/2005 is \$22M. The budgeted amount for this section for 2004/2005 is \$21M. The budgeted amount for this section for 2005/2006 is expected to be in the order of \$25.6M.

5. What is the total projected expenditure on legal services for 2005/2006 for the Agency?

Answer:

The total projected legal expenditure for 2005/2006 amounts to \$66.4M. This includes anticipated external legal expenditure of \$40.8M and internal expenditure of \$25.6M (but does not include other additional internal legal expenditure on tax interpretive advice and para-legal debt collections activities). If the expenditure for these areas were to be included, the total legal services expenditure for the Tax Office would be in the order of \$98M.

6. Which organisations or individuals were contracted to provide legal services to the Agency in 2004/2005?

Answer:

See Attachment A.

7. In each instance, how much was each organisation or individual paid for these services?

Answer:

See Attachment A.

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8. Does the Agency use an open tendering or select tendering process (as described in the Commonwealth Procurement Guidelines, p 42) when procuring legal services?

Answer:

For litigation and dispute purposes, the Mandatory Procurement Procedures of the Commonwealth Procurement Guidelines do not apply to the engagement of an expert or neutral person, including engaging counsel or barristers, for any current or anticipated litigation or dispute.

As the majority of Tax Office expenditure on external legal services is in respect of litigation, the Tax Office does not generally use tendering processes for these services.

The Tax Office has a Memorandum of Agreement with the Australian Government Solicitor for the provision of legal services and 'direct briefs' counsel on legal matters relating to litigation and dispute issues.

The Tax Office has used open tendering for legal services for specific projects such as the Change Program and Bulk Printing. Suppliers for the Change Program are Blake Dawson Waldron and Corrs Chambers Westgarth and for Bulk Printing are Blake Dawson Waldron. An open tender process is also being used to obtain a panel for the provision of process server services.

The Tax Office is currently finalising a tender process in respect of the provision of external legal services for commercial and general law and debt litigation work.

9. If a select tendering process is used: (a) which method of select tendering is used and (b) which firms or individuals are currently eligible to tender for legal services?

Answer:

Please refer to question 8.

10. If a multi-use list is used: (a) which firms or individuals are currently on that list and (b) when was the list last opened for applications?

Answer:

Please refer to question 8.

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11. In 2004/2005 did the Agency obtain any legal services using a direct sourcing procurement process? If so, provide details including the name of the provider, the work involved and the cost?

Answer:

The Tax Office has used a direct source procurement process to obtain legal services from former Justices, the Hon D. Davies, L. J. Priestley and G. E. Fitzgerald QC. Details are included in Attachment A.

12. In 2004/2005 did the Agency procure any legal services under the thresholds required for 'covered procurements' (within the meaning of 8.6 of the Commonwealth Procurement Guidelines)? If so, provide details including the name of the provider, the work involved and the cost.

Answer:

See Attachment A.

13. In 2004/05 did the Agency contract any legal firms to provide services other than legal services (such as consulting, conduct of policy reviews etc)? If so, provide details including the name of the firm, the project involved and the cost of the contract.

Answer:

Tax technical consultancy services are provided to the Tax Office by legal firms through the membership of certain individuals from the firms on various multi-disciplinary advisory panels. See Attachment B

Note that items included in Attachment A as payments to Ferrier Hodgson and Prentice Parbery Barilla include amounts where the Tax Office has indemnified liquidators for their costs in obtaining legal services in connection with debts due to the Commonwealth.

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Attachment A

Supplier	Total	Details of Services
A G DIETHELM	12,146	Current or anticipated litigation or dispute
A J DEVER PTY LTD	138,079	Current or anticipated litigation or dispute
A J O'BRIEN	5,895	Current or anticipated litigation or dispute
A ROBERTSON S.C.	28,479	Current or anticipated litigation or dispute
A. J. ABBOTT	4,548	Current or anticipated litigation or dispute
A. WEINGART	495	Current or anticipated litigation or dispute
ADAMS LEYLAND	140	Current or anticipated litigation or dispute
ALLENS ARTHUR ROBINSON	30,664	Current or anticipated litigation or dispute
ANDREW ABBOTT	4,745	Current or anticipated litigation or dispute
ANN CUNNINGHAM	2,700	Current or anticipated litigation or dispute
ANTHONY LULIANO	2,900	Current or anticipated litigation or dispute
AUSTRALIAN GOVERNMENT SOLICITOR	24,592,953	Services in accordance with Memorandum of Agreement
AUTORE & ASSOCIATES	10,926	Current or anticipated litigation or dispute
BARRISTERS CLERKING SERVICES P/L	156,120	Debt collection services and/or litigation
BLAKE DAWSON WALDRON	571,932	Project in accordance with tender process
BLOOMFIELDS SOLICITORS	370	Current or anticipated litigation or dispute
C A WILKINS	1,540	Current or anticipated litigation or dispute
CAROLYN J CONWAY	1,739	Current or anticipated litigation or dispute
CHURCH & GRACE	2,800	Current or anticipated litigation or dispute
CLAYTON UTZ	33,517	Current or anticipated litigation or dispute
CORRS CHAMBERS WESTGARTH	16,372	Project in accordance with tender process
COUDERT BROTHERS	4,760	Current or anticipated litigation or dispute
CRAIG D COULSEN	5,008	Current or anticipated litigation or dispute
DALE BOUCHER	6,780	Current or anticipated litigation or dispute
THE HON. D DAVIES QC	103,545	Legal advice/dispute resolution services
DAVID MCGOVERN	34,005	Current or anticipated litigation or dispute
DAVID W MARKS	4,981	Current or anticipated litigation or dispute
DEREK DAVELAAR	1,070	Current or anticipated litigation or dispute
DIBBS BARKER GOSLING	83,531	Current or anticipated litigation or dispute
DUNCAN'S LIST	96,654	Debt collection services and/or litigation
ELENNE FORD	8,307	Current or anticipated litigation or dispute
ELRINGTON BOARDMAN ALLPORT	681	Debt collection services and/or litigation
FERRIER HODGSON	13,776	Current or anticipated litigation or dispute
FINLAYSONS	10,692	Current or anticipated litigation or dispute
FOLEYS LIST PTY LTD	30,631	Debt collection services and/or litigation
FREDERICK JORDAN CHAMBERS	6,545	Debt collection services and/or litigation
THE HON. G E FITZGERALD AC QC	27,900	Legal advice/dispute resolution services
G J MCNAUGHT PTY LTD	61,511	Current or anticipated litigation or dispute
GAIL ARCHER	10,047	Current or anticipated litigation or dispute
GEOFF C LINDSAY	9,006	Current or anticipated litigation or dispute

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GORDON & JACKSON	29,105	Debt collection services and/or litigation
GREGORY LYNHAM	5,385	Current or anticipated litigation or dispute
HORWATH JEFFERSON STEVENSON	33,263	Current or anticipated litigation or dispute
J A LOGAN	12,673	Current or anticipated litigation or dispute
JAMES D HENRY	1,063	Current or anticipated litigation or dispute
JAMES HMELNITSKY	4,380	Current or anticipated litigation or dispute
JEREMY ALLANSON	1,293	Current or anticipated litigation or dispute
K P FARMER & ASSOCIATES	5,609	Current or anticipated litigation or dispute
KELLS THE LAWYERS	150	Current or anticipated litigation or dispute
KERRI MELLIFONT	14,473	Current or anticipated litigation or dispute
KEVIN CONNOR	7,134	Current or anticipated litigation or dispute
KLIGER PARTNERS	3,500	Current or anticipated litigation or dispute
LAST AND MAXWELL	235	Debt collection services and/or litigation
THE HON. L. J. PRIESTLEY QC	224,983	Legal advice/dispute resolution services
LEGAL SERVICES-AG's	5,355	Current or anticipated litigation or dispute
LEO A. TSAKNIS	16,942	Current or anticipated litigation or dispute
M P CLEARY	37,944	Current or anticipated litigation or dispute
MACDONNELLS SOLICITORS	14,602	Current or anticipated litigation or dispute
MADELINE BRENNAN	42,848	Current or anticipated litigation or dispute
MALLESONS STEPHEN JAQUES	1,554	Current or anticipated litigation or dispute
MARK D MARTIN	6,223	Current or anticipated litigation or dispute
MARK LEEMING	455	Current or anticipated litigation or dispute
MARK ROBERTSON	7,291	Current or anticipated litigation or dispute
MARTIN DAUBNEY	4,303	Current or anticipated litigation or dispute
MCINNES WILSON	7,140	Current or anticipated litigation or dispute
MICHAEL A. WIGNEY	1,029	Current or anticipated litigation or dispute
MICHAEL BATEMAN	15,628	Debt collection services and/or litigation
MICHAEL DAWSON	1,000	Current or anticipated litigation or dispute
MICHAEL GREEN	773	Debt collection services and/or litigation
MICHAEL GREEN PTY LTD	61,610	Debt collection services and/or litigation
MICHAEL HAWKINS	1,400	Current or anticipated litigation or dispute
MICHAEL INGLIS	7,255	Current or anticipated litigation or dispute
MICHAEL JAMES BYRNE	18,208	Current or anticipated litigation or dispute
MICHAEL JONSSON	6,500	Current or anticipated litigation or dispute
MICHAEL O'FARRELL	13,070	Current or anticipated litigation or dispute
ML BRABAZON	45,000	Current or anticipated litigation or dispute
MURRAY ALDRIDGE SC	23,515	Current or anticipated litigation or dispute
MURRAY CHAMBERS	5,260	Current or anticipated litigation or dispute
NASH ONEILL TOMKO	66,118	Current or anticipated litigation or dispute
NEIL WILLIAMS	28,000	Current or anticipated litigation or dispute
NOT LAWYERS	46,943	Current or anticipated litigation or dispute
P E HACK	21,818	Current or anticipated litigation or dispute
P G BICKFORD	2,087	Current or anticipated litigation or dispute
P J ROBERTS PTY LTD	95,491	Debt collection services and/or litigation
P P McQUADE - BRAMWELL CHAMBERS	5,544	Current or anticipated litigation or dispute

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Supplier	Total	Details of Services
PAUL FURY	17,625	Current or anticipated litigation or dispute
PAUL HOLMES BARRISTERS CLERK P/L	1,600	Debt collection services and/or litigation
PAUL RODIONOFF	90,185	Debt collection services and/or litigation
PETER M FRASER	18,836	Current or anticipated litigation or dispute
PETER QUINLAN	5,794	Current or anticipated litigation or dispute
PHILLIPS FOX	13,636	Current or anticipated litigation or dispute
PRENTICE PARBERY BARILLA	80,411	Current or anticipated litigation or dispute
PRIME LAWYERS	2,000	Current or anticipated litigation or dispute
R F EDMONDS	2,727	Current or anticipated litigation or dispute
R.J. WHITINGTON PTY LTD	1,600	Current or anticipated litigation or dispute
RASHELLE L SEIDEN	2,682	Current or anticipated litigation or dispute
RICHARD ROSS-SMITH	14,575	Current or anticipated litigation or dispute
RIDGWAY BLAKE	1,911	Current or anticipated litigation or dispute
RODERICK CORDARA QC	36,600	Current or anticipated litigation or dispute
ROGER S QUINN	162,881	Current or anticipated litigation or dispute
ROGER SALLIS	263,113	Current or anticipated litigation or dispute
S. J. MCMILLAN	8,727	Current or anticipated litigation or dispute
SALLY NASH & CO	1,258	Current or anticipated litigation or dispute
SANDRA FODA	9,195	Current or anticipated litigation or dispute
SASHI MAHARAJ	9,532	Current or anticipated litigation or dispute
SELWYN GIBB	10,364	Current or anticipated litigation or dispute
STEPHEN LLOYD	8,338	Current or anticipated litigation or dispute
STUART COLE	11,235	Current or anticipated litigation or dispute
TAVOULARIS AND COMPANY	6,764	Current or anticipated litigation or dispute
W.T. PURCELL CHADWICK & SKELLY	1,035	Current or anticipated litigation or dispute
WARD KELLER PTY LTD	4,034	Current or anticipated litigation or dispute
WAYNE ELLIOTT	6,200	Current or anticipated litigation or dispute
Grand Total	27,885,496	

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Attachment B

Consultancy services provided by legal firms to the ATO

Supplier	Value	Description
TTLegal	\$40,000	Indirect tax panel
Russell Kennedy	\$10,000	Indirect tax panel
Maddocks Lawyers	\$12,000	Test case litigation panel