

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2006-2007 BUDGET SENATE ESTIMATES HEARING
29TH AND 30TH MAY 2006
EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

QUESTIONS ON NOTICE

Outcome: Corporate

Question Number: W165-07

Question:

Senator Wong asked at *Hansard* page 28:

Please provide a general template letter that a new APS employee would receive including an AWA offer.

Answer:

An AWA template letter of offer for a new APS employee is provided at Attachment A.

An AWA template for an ongoing non SES employee is provided at Attachment B.



Australian Government
**Department of Employment and
Workplace Relations**

National Office

GPO Box 9879 CANBERRA ACT 2601

Name
Address
ADDRESS

Dear Name

I am pleased to formally offer you employment with the Department of Employment and Workplace Relations as an ongoing APS employee pursuant to the *Public Service Act 1999*. This offer is subject to you entering into an AWA, and satisfying the employment checks and health assessment described below. The offer is for engagement as a <DEWR Broadband 1/2/3> in the <Team, Branch, Group, Location, position number>. Your AGS number is <number> which will be used as your identification number during your employment with the Australian Public Service.

CONDITIONS OF EMPLOYMENT

Your engagement will be subject to you entering into an Australian Workplace Agreement (AWA). Your AWA will be forwarded to you separately. If you would like more information about AWAs please contact the Human Resources Branch, AWA Hotline on (02) 6121 6688 or consult the Office of the Employment Advocate's (OEA) website at www.oea.gov.au.

Your employment will be subject to a probation period of 6 months. Your probation period may be extended if you are absent from work for a significant part of the initial 6 months due to circumstances beyond your control (e.g. ill health, injury or accident, jury duty, etc.), and that absence prevents an adequate assessment of your performance from being made. An extension can prolong probation by a period up to the length of the absence.

Engagement on probation enables your conduct and work performance to be assessed to determine your suitability for ongoing employment. If during the probationary period your conduct or work performance is considered unsatisfactory, your employment may be terminated on the ground of failure to meet the probation condition.

You should also be aware that APS employees must uphold the APS Values and abide by the APS Code of Conduct (see enclosed bookmark for further information about the APS Values and the APS Code of Conduct).

As an ongoing employee you are required to join the employer sponsored superannuation scheme. If this is your first period of Australian/or ACT Government employment you will become a member of the PSSap (accumulation Plan). If you have an entitlement to a CSS or PSSdb benefit you will rejoin that scheme.

You should read the attached superannuation information and complete any required forms to allow commencement of employer superannuation contributions.

This offer of ongoing employment is also conditional on you satisfying a character clearance (via a police records check) and a health clearance (via a health assessment to determine your fitness for duty). You must also establish your Australian citizenship, unless DEWR has waived that condition in writing. Each of these conditions is a condition of engagement imposed under subsection 22(6) of the Public Service Act 1999. If you do not meet these conditions your employment will not proceed, or, if you have commenced employment prior to these clearances being completed, may be terminated. You are required to provide the following (pre-paid envelope enclosed) within **10 days of the date of this offer**.

- **Confirmation of your continuing interest** in the position, including an indication of when you can commence employment with the department (a form is attached for you to complete and return)
- **Original evidence** (or a true copy, certified by a JP, Minister of religion, solicitor) of:
 - Australian citizenship (eg passport or Certificate of Evidence of Australian Citizenship).
 - Certified copy of birth certificate or passport, if not available, two other forms of photo ID, eg drivers licence or student ID card.
 - Documentation relating to name changes (if applicable), such as marriage certificate or deed poll.
- **Completion of the enclosed forms:**
 - Consent to Obtain Personal Information
 - Tax file number declaration
 - Induction form
 - Net pay form
 - Additional Bank Account/s form (if required)
 - Declaration of not receiving a redundancy payment from the Commonwealth in the last twelve months
- **Original evidence of qualifications** where qualifications are a requirement of holding a position.

An appointment for your health assessment has been arranged with **<provider>**. **Your appointment will be on <date> at <time> in the <Location> office.** Please phone **<phone number>** if you wish to rearrange this appointment. Please see the assessment form enclosed. You will be required to complete the employee sections of the form and take it with you to your pre-employment medical appointment once it is arranged. You will also be required to bring any items that you may require for your medical such as glasses etc.

Your health assessment report will be provided by the Medical Adviser to the Department after the assessment. The information in your health assessment report may be provided to managers in the department.

Please also find enclosed some general departmental information for you to read prior to commencing at DEWR, including the People and Leadership Statement and the Workplace Diversity Strategy 2005-2007. Please also take note of the orientation process diagram, which

outlines the steps that are taken to ensure that your transition into the department and the Public Service is as smooth as possible.

Please contact <name> on (02) <phone number> if you require any further information.

Yours sincerely

Delegate of the Secretary
Recruitment
HR Operations Centre

date 2006



Australian Government
Department of Employment and
Workplace Relations

National Office

GPO Box 9879 CANBERRA ACT 2601

<Title> <Firstname> <Surname>
<Address>
<Suburb> <State> <Postcode>

<Date>

Dear <Firstname>

RE: OFFER OF AN AUSTRALIAN WORKPLACE AGREEMENT

Please find attached your Australian Workplace Agreement, and a copy of the OEA's Information Statement about AWAs. <for employees new to the department> [Acceptance of an AWA is a condition of your engagement with the Department.] This AWA will operate from the day on which it is lodged with the Employment Advocate. You should keep a copy of your AWA and the Information Statement for the life of the AWA.

The AWA provides for an attractive package of pay and conditions, including:

- a salary of \$<salary> (part time employees will be paid on a pro-rata basis); and
- access to a performance bonus of up to \$<XXX> based on the annual assessment of your performance.

If you enter into an AWA in accordance with this letter of offer, and that AWA is terminated by you or the Department after the Nominal Expiry Date of the AWA, then your salary, performance bonus and superannuation arrangements will remain as they were at the date of termination until a new agreement applies.

You must consider the AWA for a minimum of 7 days, not including the day you receive it, before you sign it. Within the seven day period, should you wish to discuss any aspect of this offer please contact HR Operations on 6121 6688 or extension 66688. The offer will remain open for six weeks from the date of this Letter.

After you have signed the AWA, you must then promptly, and at most within 14 days of receipt, return your signed AWA to your Group Manager for signature and lodgement with the Office of the Employment Advocate.

Yours sincerely

**Signed GM
Group**

WORKPLACE RELATIONS ACT 1996

AUSTRALIAN WORKPLACE AGREEMENT

BETWEEN

**SECRETARY OF THE DEPARTMENT OF EMPLOYMENT AND
WORKPLACE RELATIONS, ON BEHALF OF THE
COMMONWEALTH OF AUSTRALIA**

AND

[Non SES employee - ongoing]

Contents of Australian Workplace Agreement

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Additional Clauses

1. OPERATION OF AGREEMENT

1.1 Parties, Process and Operation

1.1.1 This agreement is made under Part 8 of the *Workplace Relations Act 1996* (“the Act”) between the Secretary of the Department of Employment and Workplace Relations (“the department”), on behalf of the Commonwealth of Australia, and the employee named in Schedule A (“you”).

1.1.2 This Agreement commences operation on the day that it is lodged with the Employment Advocate. The nominal expiry date of this agreement is three years after the date when the AWA is lodged with the Employment Advocate in accordance with section 344 of the Act.

Note: The covering letter for your AWA specifies that if your AWA is terminated after the nominal expiry date, and before another agreement is entered into, your salary, performance bonus and superannuation arrangements will remain as they were at the date of termination, until a new agreement applies.

1.1.3 If the function you perform and your employment is transferred to another Commonwealth department, agency or other body pursuant to section 72 of the *Public Service Act 1999* in order to give effect to an administrative re-arrangement, then this agreement does not terminate upon you ceasing employment with the department.

1.1.4 For the avoidance of doubt, this Agreement is a comprehensive agreement and operates to the exclusion of:

- (i) the Continuous Improvement in the Australian Public Service Enterprise Agreement 1995-96, the DEWR Certified Agreement 2005 – 2008 as varied from time to time, and any subsequent Collective Agreement;
- (ii) the Australian Public Service Award 1998 as varied from time to time (“the APS Award”); and
- (iii) the protected award conditions (as defined in the Act as amended from time to time) and any conditions that are about, incidental to, or machinery provisions to, protected award conditions within the APS Award.

Note: The protected award conditions are award conditions that are excluded from this Agreement that would, but for this Agreement, have effect in relation to your employment and relate to the following matters: rest breaks, incentive-based payments and bonuses, annual leave loadings, public holidays, monetary allowances, loadings for working overtime or for shift work, penalty rates, outworker conditions; and any other award conditions specified as protected award conditions in Regulations made under the Act.

1.1.5 Other Commonwealth laws concerned with employment, such as (but not limited to) the *Public Service Act 1999*, the *Long Service Leave (Commonwealth Employees) Act 1976*, the *Maternity Leave (Commonwealth Employees) Act 1973*, the *Superannuation Act 1976*, the *Superannuation Act 1990*, the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* and the *Superannuation Productivity Benefit Act 1988*, continue to apply according to their terms.

1.1.6 The guides/guidelines/policies and procedures referred to in this agreement may be varied from time to time, and they will apply in the form they are in as at the time of the relevant action/decision. If there is any inconsistency between the guides/guidelines/policies and the express terms of this agreement, the express terms of the agreement prevail.

1.2 Variation

Subject to the Act, the Secretary and you may make a written agreement varying this agreement.

1.3 Delegation

Subject to the Act, the Secretary may delegate any or all of his or her powers and functions under this agreement.

2. PERFORMANCE

2.1 Duties and Obligations

You will undertake the duties assigned by your manager from time to time. You are to comply with lawful instructions given in connection with your duties.

2.2 Working arrangements

- 2.2.1 Working arrangements, including attendance for duty, will be in accordance with the department's *Working Arrangements and Public Holidays Guide*.
- 2.2.2 For the purposes of leave accrual and deductions, deductions for unauthorised absences and calculating part-time hours, the standard full time hours will be 36 ³/₄ per week, noting that an additional 9 minutes a day is required for the paid time off as set out in 4.1.9.
- 2.2.3 You may, with the agreement of your manager, access regular part-time work or work from home on either a regular or temporary basis, in accordance with the department's *Regular Part Time Work Guide* and *Working From Home Guide*. Remuneration and other benefits will be calculated on a pro rata basis if you elect to work part-time.
- 2.2.4 The Secretary may allocate broadbands to the APS classification structure, in accordance with the *Broadbanding Guide* as varied from time to time.

2.3 Performance Arrangements

- 2.3.1 You will enter into a performance arrangement with your immediate manager in accordance with the department's *Performance Agreement Scheme* as varied from time to time. The performance arrangement will cover the period from the beginning to the end of each financial year.
- 2.3.2 The performance arrangement will identify your developmental needs as agreed with your immediate manager. The department aims to provide access to development opportunities consistent with these needs.
- 2.3.3 If an underperformance issue arises, it will be dealt with in accordance with the procedures set out in the department's *Managing Underperformance Guide*. These procedures may result in termination of employment or some other action, including a reduction in classification.

3. REMUNERATION

3.1 Salary and Other Benefits

- 3.1.1 Your annual salary for full-time hours with effect from <date of effect> is the amount of <\$xxxxxx> which reflects the skills and responsibilities required in your job and is payable fortnightly in arrears.
- 3.1.2 The annual salary and maximum performance bonus specified in subclauses 3.1.1 and 3.1.3 can be varied at anytime during the life of this agreement by agreement between you and the Secretary. Reviews will occur at least annually.
- 3.1.3 You will also be eligible for an annual performance bonus of up to <\$xxxxxxx> (on the basis of full-time service) for the year ended June 2006 and for amounts in subsequent years as agreed under your performance arrangements and consistent with the *AWA Handbook*. There is no entitlement to a pro-rata bonus for part years of service unless expressly approved by the Secretary.
- 3.1.4 The Secretary may supplement your salary and benefits at any time with additional monetary or other benefits.
- 3.1.5 Where you are absent from work without approval, all pay and other benefits provided under this agreement, e.g. flexible working arrangements and flextime, will cease to be available until you resume work or are granted leave.

- 3.1.6 From time to time, the Secretary will identify specific learning and development programs, designed to build essential departmental capabilities. The Secretary may approve a bonus or other form of recognition for participants in these programs.

3.2 Salary for Superannuation Purposes

Except where a higher rate is maintained in accordance with the rules of your scheme, your salary for all superannuation purposes is the total specified in subclause 3.1.1 and any subsequent adjustments pursuant to subclause 3.1.2 only. The date specified in subclause 3.1.1 is the date of effect from which your salary for superannuation purposes may vary, in accordance with the rules of your scheme, to the rate specified in that subclause.

3.3 Remuneration Packaging

Subject to the *Remuneration Packaging Guidelines*, you will have access to flexible salary packaging.

4. LEAVE

- 4.1 You are entitled to:

- 4.1.1 elect to purchase one, two, three, four, five or six weeks additional leave per year in accordance with the *Annual Leave Guide* – purchased leave counts as service for all purposes;
- 4.1.2 the public holidays set out in the department's *Working Arrangements and Public Holiday Guide*;
- 4.1.3 paid annual leave which:
- i) shall accrue at 20 working days per annum, accruing daily and credited monthly,
 - ii) shall be subject to the approval of your immediate manager (approval will not be unreasonably withheld),
 - iii) may be cashed out in accordance with section 233 of the Act,
 - iv) is payable on separation, and
 - v) is subject to any directions given pursuant to s 236(6) of the Act, save that such directions may only be given once you have accrued more than 60 days annual leave;
- 4.1.4 paid personal leave, which will be credited at eighteen (18) days full-pay on your date of commencement and on each subsequent anniversary of your commencement in the Australian Public Service. Unused personal leave will accumulate, but will not be paid out on separation. Such leave will be for a purpose consistent with the department's *Personal Leave Guide*;
- 4.1.5 unpaid carer's leave, and paid compassionate leave in accordance with whichever is the more beneficial of Division 5 of Part 7 of the Act and the department's *Other Leave Guide*;
- 4.1.6 parental leave in accordance with Division 6 of Part 7 of the Act, except (for female employees) to the extent that the *Maternity Leave (Commonwealth Employees) Act 1973* is more beneficial, plus, for female employees, an additional two weeks paid maternal leave as set out in the department's *Maternity and Parental Leave Guide*;
- 4.1.7 adoption and pre-adoption leave in accordance with whichever is the more beneficial of Division 6 of Part 7 of the Act and the department's *Maternity and Parental Leave Guide*;
- 4.1.8 other paid or unpaid leave, which may be granted at the discretion of your immediate manager. Such leave will be for a purpose consistent with the department's *Other Leave Guide*; and
- 4.1.9 paid time off for a half day on the working day immediately prior to Christmas Day and two days paid leave in between Christmas and New Year's Day (or equivalent). In the exceptional cases where you are required to work on these days, you will be provided with an equivalent period of

time off in lieu to be taken within 4 weeks or at an alternative time agreed with your immediate manager.

5. TRAVEL

5.1 Domestic and Overseas travel

You will be provided with a departmental travel card which you may use to charge, in accordance with the department's *Travel Policy and Guide*, reasonable expenses in relation to accommodation and meal costs incurred while travelling on official business both within Australia and overseas.

6. RELOCATION ASSISTANCE

6.1 If you are required to move to a different geographical location for official business purposes you will be reimbursed reasonable relocation and accommodation expenses in accordance with the department's *Relocation Assistance Guide*. If you ask to be transferred, expenses may be paid at the discretion of the Secretary.

7. OTHER CONDITIONS

7.1 Remote Localities Assistance

If your usual place of work is in one of the department's remote locality offices, you will receive remote localities assistance that may apply in accordance with the department's guide on *Remote Localities Assistance*.

7.2 Loss and damage

The Secretary may approve reimbursement for loss or damage to clothing or personal effects which occurred in the course of your work.

7.3 First Aid Allowance

If you possess a current first aid certificate and are designated by the Secretary to undertake first aid responsibilities within the department you will be paid an allowance of \$16 per fortnight (or as varied from time to time).

7.4 Warden Allowance

If you have undertaken the approved training and are designated by the Secretary to undertake warden responsibilities within the department you will be paid an allowance of \$16 per fortnight as a Warden or \$20 per fortnight as a Chief Warden (or as varied from time to time).

8. REDEPLOYMENT AND REDUNDANCY

8.1 Principles

8.1.1 The following process only applies to you if you are an ongoing employee who is not on probation.

8.1.2 Throughout the process the Secretary will take all reasonable steps, consistent with efficient operational requirements, to transfer you if you are potentially excess to a suitable vacancy at an equal classification level within the department or in another APS agency. As a potentially excess employee you will take all reasonable steps to identify and apply for suitable vacancies at an equal classification level.

8.1.3 Discussions will be held with you and if requested, your representative (if nominated) to consider:

- (i) actions that might be taken to reduce the likelihood of you becoming excess;
- (ii) redeployment opportunities for you; and
- (iii) the availability of job swaps within the department or another APS agency, at the Secretary's discretion.

8.2 Notification of Potentially Excess Status

8.2.1 The Secretary will advise you if you are likely to become excess at the earliest practicable time.

8.3 Voluntary Redundancy

8.3.1 Where the Department offers you a voluntary redundancy you will have an eight week consideration period within which to accept the offer.

8.3.2 Within that eight week period you will be given advice on the amount of your severance pay, pay in lieu of notice, paid up leave credits, accumulated superannuation contributions; options open to you concerning superannuation; the taxation rules applicable to each form of payment; and the amount of agreed financial assistance available so you may seek independent financial advice up to the value of \$1,200 and career counselling up to the value of \$1,200.

8.3.3 The eight week consideration period can be reduced by agreement between you and the Secretary as long as you have received the advice outlined in Clause 8.3.2. Unless you agree to reduce the two-month period, notice of termination will not occur before the end of that two-month period.

8.4 Redundancy Payments

8.4.1 Where the eight week consideration period is reduced, you will be paid for the unexpired portion of the two-month period as at the date of termination, including any leave benefits, which may have accrued, had you worked through the two-month period. You will also receive payment in lieu of the relevant period of notice provided for in Clause 8.4.3.

8.4.2 If you accept an offer of voluntary redundancy under Clause 8.3.1, you will be paid a sum equal to two weeks salary for each completed year of service; plus a pro rata payment for completed months of service since the last completed year of service, with a minimum payment of 4 weeks and a maximum of 48 weeks salary.

8.4.3 If you accept the offer, the Secretary will give you the required notice of termination of 4 weeks (or 5 weeks for an employee over 45 with at least 5 years of continuous service) or a lesser period agreed with you. If you separate within the notice period, you will be paid for the unexpired portion of the notice period.

8.5 Calculating Redundancy Payments

8.5.1 Redundancy payments will be calculated on:

- (i) your salary on the date of termination; and
- (ii) allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

8.5.2. The redundancy payment will be calculated on a pro rata basis for any period where you have worked part-time hours during your period of service and you have less than 24 years full time service.

8.5.3 Subject to Clauses 8.5.4, 8.5.5 and 8.5.6 service for severance pay purposes means:

- (i) service in the Department;
- (ii) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
- (iii) Service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
- (iv) Service with the Australian Defence Forces;

- (v) APS service immediately preceding deemed resignation (as defined), if the service has not previously been recognised for severance pay purposes; and
- (vi) service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes.

8.5.4 Periods of service that will not count as service for redundancy pay purposes are any periods of service that ceased by way of:

- Termination under s29 of the *Public Service Act 1999*;
- Redundancy; retirement on ground of invalidity; inefficiency or loss of qualifications; forfeiture of office; dismissal or termination of probationary appointment for reasons of unsatisfactory service; prior to the commencement of the *Public Service Act 1999*
- Voluntary retirement at or above the minimum retiring age applicable to the employee; or
- Payment of an employer-financed retirement benefit.

8.5.5 For earlier periods of service to count there must be no breaks between the periods of service, except where the break in service is less than 1 month and occurs where an offer of employment with the new employer was made and accepted by you before ceasing employment with the preceding employer.

8.5.6 Absences from work, which do not count as service for any purpose, will not count as service for redundancy pay purposes.

8.6 Involuntary Redundancy

8.6.1 You will not have your employment terminated involuntarily if you have not been invited to elect for voluntary redundancy or if your election to be made redundant voluntarily has been refused.

8.6.2 If you do not accept voluntary redundancy, you will not be terminated under section 29 of the *Public Service Act 1999* without agreement for a period of 7 months.

8.7 Retention Period

8.7.1 A retention period of 28 weeks commences on the day after the expiration of the consideration period.

8.7.2 Where there is insufficient productive work available for you during the retention period, the Secretary may, with your agreement, terminate your employment and pay the balance of the retention period as a lump sum.

8.7.3 During the retention period the manager:

- (i) will assist with attempts to find alternative employment; and/or
- (ii) may, on request, provide assistance in meeting reasonable travel costs and incidental expenses incurred in seeking alternative employment;
- (iii) may, after giving 4 weeks notice to you, reduce your classification as a means of securing alternative employment. If this occurs prior to the end of the retention period, you will continue to be paid at your previous level for the balance of the retention period.

8.7.4 The retention period will not be extended by any periods of paid or unpaid leave. The Secretary may consider extending a retention period where medical evidence indicates you are substantially incapacitated and are considered to be unfit for work by a medical practitioner nominated by the Department. It would only be in exceptional circumstances that the retention period would be extended beyond an additional 2 months.

8.7.5 You will be given 4 weeks notice (or 5 weeks notice for an employee over 45 with at least 5 years of continuous service) of termination to be served (as far as practicable) concurrently with the retention period.

9. RESOLVING WORKPLACE ISSUES

9.1 If there is any issue arising between you and the Commonwealth under this agreement, we will attempt to resolve it at the workplace level through the procedure outlined in Division 2 of Part 13 of the Act.

ADDITIONAL CLAUSES

