

Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Australian Public Service Commission

Estimates 2005-06 – Budget Estimates, May 2005

Question: PM 72

Topic: Legal Services Expenditure

Senator Ludgwig asked:

1. What amount did the Agency spend during the financial year 2004/05 on outsourced legal practitioners?

The Commission paid for the provision of legal advice on 33 Commission matters in the 04/05 period and spent a total of \$163749.45 (incl GST). In addition the Commission engaged a provider on a matter for the Australian National Training Authority in which fees were paid in the amount of \$20,327.45 but the Commission was fully reimbursed for this by ANTA. Payments to the Attorney-General's Department are not included.

2. What was budgeted amount in 04/05 for outsourced legal practitioners?

The Commission does not allocate a particular budget to outsourced legal practitioners. The Commission makes broad provision within its corporate costs for potential legal issues, based on experience in previous years; generally it is in the order of \$110000; (04/05 was atypical in that there was AAT litigation which was an unusual expense and the introduction of the new Commonwealth Procurement Guidelines required some additional expense).

3. and 4. What amount did the agency spend on internal legal services. Does the agency have an in-house legal section? What was the 04/05 actual cost of this section? What was the budgeted amount for this section in 04/05? What is the budget amount for this section in 05/06.

The Commission has an internal legal section which performs a mixture of legal services, policy, corporate governance functions. It is not possible to divide the time spent on various roles. All requests for external legal services are channelled through the legal section. The section is staffed by an EL2 and an EL1. Based on the direct costs of salaries, superannuation, leave and administration costs, the in-house legal section cost \$221,000 in 04/05. The projected cost of the in-house legal section in 05/06 is approximately \$237,000 and broad provision for external services is made of about \$200,000. Some additional expenditure on external legal services has been factored into the estimate for 05/06 for the review of the Public Service Act.

5. What is the total projected expenditure on legal services for 05/06 for the Agency?

The projected cost of the in-house legal section in 05/06 is approximately \$237,000 and broad provision for external services is made of about \$200,000, making a total of \$437,000.

6. Which organisations or individuals were contracted to provide legal services to the Agency in 04/05?

The Australian Government Solicitor (AGS)

7. In each instance, how much was each organisation paid?

All fees were paid to AGS

8. Does the agency use an open tendering or select tendering process (as described in the Commonwealth Procurement Guidelines, p42) when procuring legal services?

No

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?

n/a

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?

n/a

11. In 04/05 did the agency obtain any legal services using direct sourcing procurement process? If so, provide details including the name of the provider, the work involved and the cost?

The Commission paid AGS in relation to 33 matters. The Attorney General's Department was also paid an amount for services but has not been included in the figures relating to outsourced legal practitioners in question 1. A table is attached indicating the matters and the amounts paid.

12. In 04/05 did the agency procure any legal services under the threshold required for covered procurements?

Yes all procurements were under the threshold. See table referred to above.

13. In 04/05 did the Agency contract any legal firms to provide services other than legal services? If so, provide details including the name of the firm, the project involved and the cost of the contract.

Four employees of the Commission attended FOI and Privacy courses offered by AGS at a cost of \$2420.

Speakers from AGS were contracted to present at Commission seminars at a cost of \$1505.34 during 04/05. A further service at a Commission seminar was supplied by

AGS in June 05 with an expected cost of \$500 but an invoice has not yet been received.

N o.	Details of advice sought- date, description,	Details –date of invoice and amount (incl GST)
1	06/ 04; FOI advice re APSED	8/7/04 21/07/04 \$679.80 \$192.50
2	06/04 termination of employment –advice re new ground	16/07/04 \$2065.80
3	Ongoing contracts template review issues	7/10/04 5/11/04 \$911.90 \$399.30
4	28/06/04-oral FOI advice relating to the scope of reg 9.2 of the regulations	21.07/04 \$577.00
5	06/04 MPC advice re ABS case	20/07/04 \$1424.50
6	28/06/04;work re MPCr conference	29/10/04 \$5373.50
7	04/754; 29 June 04; AAT FOI case	21/10/04; 19/11/04; 15/12/04, 14/01/05, 18/02/05, 17/03/05, 21/04/05, 21/6/05 \$48306.34
8	Engagement template advice for ongoing employment booklet,	19/10/04 \$1892.00
9	Reg 2.1 and associated matters ongoing	29/07/04 14/10/04 \$6745.20 \$3828.00
10	MPCr database query	19/07/04 \$1006.50
11	07/04 Probation/conduct interaction	8/10/04 \$6026.90
12	02/0704; Request for advice re foundations internet guide	31/8/04 \$13642.20
13	5/07/04, Request for advice on different aspects of Melbourne lease	10/8/04 22/11/04 13/01/05 \$7569.10 \$266.18 \$203.50
14	08/04; request to AGS re IP issues and ILS	17/09/04 \$475.20
15	26/08/04, request AGS advice re implications of Dempster case on payment in lieu-issues expanded from original request	29/10/04 24/11/04 \$6567.00 \$2197.80
16	08/04-request to AGS to clear s 73 circular	10/9/04 \$545.60
17	25/6 and 1/7 miscellaneous oral advice re false records and natural justice	10/9/04 \$326.70
18	07/04Oral advice re review of promotion	29/7/04 \$115.50
19	29/11 Advice on whistleblowing	16/12/04 \$2349.60
20	04/1585; 9/12/04 Advice on replacement L&D panel arrangements;new CPG issues	24/01/05, 15/2/05, 17/3/05, 15/04/05, 8/6/05 \$17,514.20
21	04/1599 22/12/04 –advice on international panel RFT and deed	15/02/05 17/03/05 13/04/05 \$8261.00 \$1012.00 \$1386.00
22	02/05-advice re CDAC RFT and Deed	17/03/05 \$6875.00
23	16/2/05-request for oral advice re internal staffing matter	30/05/05 \$597.30
24	9/2/05-requist for oral advice re ONA /DFAT transfer of staff where security	18/2/05 \$290.40

	clearance issue		
25	03/05-request to AGS re privacy and code of conduct investigation details	12/04/05	\$815.10
26	04/05 Brisbane Lease-	06/05/05 30/03/05	\$1091.31 \$1661.17
27	Oral discussion with AGS re imposing new conditions on existing employees in context of police check and immunisation proposal	27/05/05	\$583.00
28	Clarify orally re LWOP and terms & conditions of acting Commissioner	1/04/05	\$ 72.60
29	05/05 -employee ADJR application	Nil spend Comcover insurance matter	
30	05/05- summons of Melbourne office employee	31/05/05, 22/06/05	\$1807.85
31	05/05-clarify issues re LWOP for acting secretaries	22/6/05	\$517 .00
32	24/05-re adequacy of procedures and follow up on drafting of new procedures	8/6/05	\$1857.90
33	finalising the template RFT and contracts per MPPS	21/05/05	\$5720.00
		Note there were also several invoices totalling \$20,327.45 relating to advice on establishment of a proposed government industry skills council, which was obtained on behalf of Australian National Training Authority and fully reimbursed	

Note 1- AGS provided training to four staff at FOI and Privacy seminars totalling **\$2420**; and AGS provided services as presenters at two forums for **\$1505.34**;an additional AGS service was provided in June 05 for which an invoice has not been received but the amount is around \$500

Note 2- the Commission also had some drafting work done by the Attorney General's Department which charged \$492.80;

Note 3- the Attorney General's Departments acts for government agencies in negotiating copyright agreements with collecting societies and bills agencies for these services-in 04/05 the Commission paid \$1293.78 for these services

Note 4- some of the above costs include disbursements