

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARINGS: 11 February 2013

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(AE13/0030) PROGRAM – 1.1: Visa and Migration

Senator Waters (L&CA 40) asked:

Provide more detail about the proposed three-monthly scrutiny and what materials that assessment is based on. Also provide how many staff are deployed to do that work and, in general terms, how well resourced it is.

Answer:

Once an EMA is approved, the sub-contracting employers, with the endorsement of the project owner, will sign onto work agreements under the terms of the EMA, ensuring that responsibility for sponsorship obligations rests with the direct employer of the overseas worker. The EMA holder will be required under the terms of the EMA to consult with their contractors and implement arrangements for ongoing reporting and compliance through the life of the agreement.

An EMA will be subject to quarterly (three monthly) reporting requirements, which will commence three months from the date when negotiations are finalised and the Deed of Agreement is executed. The EMA holder will be required to coordinate the collation of information from across all work agreements and provide the Department with a quarterly report containing statistics on issues such as, but not limited to:

- the number of overseas workers on-site, by occupation and the type of temporary visa held;
- the ratio of overseas workers as a proportion of the total workforce on-site;
- salaries paid to overseas workers compared to Australian workers in the same occupation;
- the recruitment and training of Australians, including apprentices, trainees, and graduates ; and
- use of the Resources Sector Jobs Board.

In addition to reporting provided by the EMA holder, the Department will also conduct its own monitoring and reporting activities, including:

- undertaking a search of its computer and information systems to locate any information held by the Department relevant to the project owner and/or approved sponsors; and
- seeking information from Commonwealth and State and Territory Government agencies relevant to the project owner and/or approved sponsors on various issues, including:

- use of the Resources Sector Jobs Board;
- compliance with workplace relations legislation; and
- compliance with work, health and safety legislation.

Where an EMA holder becomes aware that an approved sponsor may be breaching their sponsorship obligations, they are required to immediately inform the Department of the possible breaches.

An EMA holder is required to provide site access to allow the Department to undertake monitoring activities and to use 'reasonable endeavours' to ensure that approved sponsors comply with their obligations under the work agreement, including reporting and compliance commitments.

Monitoring of the work agreements under an EMA will be conducted by departmental inspectors who have received specific training on EMAs. There are currently 64 officers in Program Integrity Units throughout Australia, of whom 17 have received EMA-related training to date. Inspectors have certain investigative powers available to them under the Migration Act 1958.

Monitoring of work agreements may involve any, or all, of the following:

- visits to the site, either with or without notice in order to interview visa holders, other employees and representatives of the sponsor;
- requesting records and information from the sponsor in order to determine their compliance with the sponsorship obligations; and
- exchanging information with other Commonwealth, State and Territory agencies, in particular the Fair Work Ombudsman.

Establishing a regular reporting arrangement with an EMA holder will also allow the Department to undertake regular reviews of the operation of the EMA and related work agreements by seeking feedback from the project owner and subcontractors on any issues they may have with the progression of the agreement. In conducting these reviews, the Department will seek input from other agencies including: Fair Work Australia; the workplace safety authority in the relevant State/Territory; and other Commonwealth agencies (such as DEEWR).