



Australian Government

Aboriginal and Torres Strait Islander Services



Ms Louise Gell  
Secretary  
Senate Legal & Constitutional Reference Committee  
Parliament House  
CANBERRA ACT 2600

Dear Ms Gell

**Inquiry into Legal Aid and Access to Justice (Questions on Notice)**

Thank you for your letter of 9 March 2004 requesting additional information for the Senate Legal & Constitutional Reference Committee inquiry into Legal Aid and Access to Justice. I apologise for the delay in responding.

In answer to request, the following documents are attached:

1. Ministerial Directions to the CEO of ATSIIS.
2. The ATSIIC Board of Commissioner's policy position on tender of legal services June 2003.

Yours sincerely

R B Yates  
30 April 2004

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**MINISTERIAL DIRECTIONS TO THE CEO OF ATSIIS**

- In implementing programs and arranging services for Indigenous peoples, the CEO will take all reasonable steps to ensure that ATSIIS:
  - conforms to the policies and strategic priorities set and promulgated by the Aboriginal and Torres Strait Islander Commission (ATSIC);
  - reflects the priorities set by Regional Councils in their regional plans as the critical guide for interventions and services within a region, giving due emphasis to addressing needs;
  - facilitates linked approaches with other government agencies (both Commonwealth and State/Territory) to optimise outcomes for clients;
  - coordinates its activities to achieve effective synergies with overall Government policies and priorities; and
  - has appropriate regard to overall Government policies and priorities.
- Having appropriate regard to functional priorities and strategies for addressing relative need determined by the ATSIC Board, the CEO will take all reasonable steps to ensure that resources are apportioned between regions and communities according to demonstrable relative need, taking account of the availability of alternative services in those areas and the supplementary intent of Indigenous specific services.
- The choice of and relationship with individual service providers should be based on best practice, including:
  - outcome-based funding and performance-based contracts for service delivery;
  - market testing and competitive tendering wherever appropriate;
  - assessments based on comparative efficiency and effectiveness, including demonstrated capacity to deliver; and
  - management structures that reflect principles of sound governance and leadership by fit and proper individuals with a record of effective management.
- The CEO of ATSIIS will take all reasonable steps to ensure that ATSIIS does not make grants or loans or offer contracts or provide guarantees to organizations in circumstances where such grant or provision would be precluded by my Conflict of Interests Directions issued 24 December 2002 and amended 3 February 2003.
- The CEO of ATSIIS will take all reasonable steps to ensure that ATSIIS operates in partnership with ATSIC and Regional Councils.
- Where any dispute arises as to ATSIIS's interpretation of ATSIC policies and Regional Council priorities, ATSIIS should make every effort to resolve these matters, raising any unresolved matters with me where necessary.



**ATSIC**

**COMMISSION DECISION**

**Meeting No. 81, 16 – 17 JUNE 2003**

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Decision No. 2748

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Paper No. 3487

Agenda No. 20

**LAW AND JUSTICE POLICY REFORMS**

The Commission pursuant to Sections 3 and 7 of the *Aboriginal and Torres Strait Islander Commission Act 1989*:

**( A ) NOTED**

- ( i ) that ATSIC has an ATSILS contestability policy;
- (ii) that 25% of the Legal Aid Services Program is already tendered;
- (iii) that the ATSILS Reforms process has been consistent with Board and Cabinet directions, most recently August 2002;
- (iv) in particular the State Directions Strategy as the principal strategy for reform;
- (v) that the State Directions Strategy be supported for the term of this Board;
- (vi) that Indigenous Justice Agreements in each State and Territory provide an important context for advancing law and justice reforms;
- (vii) that necessary resources will need to be directed toward the implementation of Legal Services reforms, and
- (viii) the Funding Allocation Method as a method of determining funding for Legal Aid Services based on need, and

( B ) APPROVED

- (i) expedition of the tendering for Legal Aid Services according to the proposed Timetable;
- (ii) that ATISIS will enter into contracts with selected service providers;
- (iii) that necessary resources be allocated to this reform implementation;
- (iv) the seven Principles for implementation of Legal Aid Services reforms;
- (v) implementation of the contestability policy in steps consistent with the Principles, State Direction Strategy and the Funding Allocation Method;
- (vi) ATISIS to perform law reform research and advocacy functions; and
- (vii) That a S13 Advisory Committee be formed drawing on expertise from the sector to advise on Law and Justice issues.

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Geoff Clark  
Chairperson

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