

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

14 February 2013

Question: AET 908-910

Topic: Freedom of information (ATO)

Hansard Page: Written

Senator BUSHBY asked:

908. Has the department/agency received any updated advice on how to respond to FOI requests?
909. What is the total cost to the department to process FOI requests for this financial year to date (22 February 2013)?
910. a. How many FOI requests has the Department received for this financial year to date (22 February 2013)?
- b. How many requests have been denied and how many have been granted?
- c. Has the department failed to meet the processing times outlined in the FOI Act for any requests? If so, how many and why?
- d. Do any of these requests remain outstanding? If so, how many and why?

Answer:

908. ATO decision makers refer to and comply with the Australian Information Commissioner's Guidelines issued under section 93A of the *Freedom of Information Act 1982* (the Act) as updated from time to time. These guidelines were updated in 2011-12 ranging from mere stylistic changes to changes covering various substantive matters such as extensions of time, notification that a third party has sought an Information Commissioner's review of a freedom of information decision, and publication of telephone numbers of officers. No further updates have been published as at 13 March 2013.

The ATO also has regard to the Department of the Prime Minister and Cabinet *Freedom of Information guidance notes* issued to all Departments in July 2011. Those notes can be found at http://www.dpmc.gov.au/foi/guidance_notes.cfm.

For voluminous Freedom of Information (FOI) requests, the ATO receives legal advice from external legal service providers who are engaged to assist with the processing of the request. In most cases this legal advice is incidental to the more general assistance provided by the external legal service providers in processing requests.

909. In 2012-13 to 28 February 2013, the known salary and external legal cost to the ATO to process FOI requests was \$3,315,100 (only end-of-month figures are collated by the ATO). This includes the salary cost of dedicated FOI decision makers but excludes the salary costs for staff involved in search and retrieval work as ATO systems do not capture this information.

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910. a. In 2012-13 to 28 February 2013, the ATO has received 580 FOI requests.
- b. In 2012-13 to 28 February 2013, the ATO has denied 67 FOI requests, granted in full 91 FOI requests and granted in part 365 FOI requests. Some of these decisions relate to requests received in 2011-12. Requests are not granted in full if an exception applies under the FOI law. The most common applicable exception is that disclosure would breach the secrecy provisions of the tax law.
- c. In 2012-13 to 28 February 2013, the ATO has failed to meet the processing times outlined in the FOI Act in 89 (17%) of the 523 cases decided.

The failure to meet processing times is generally attributable to the number, size and complexity of requests received by the ATO. The more complex profile of matters received by the ATO contributes to the ATO's lower than average rate of processing requests within statutory times compared to some other agencies which process under FOI routine requests for access to information. The ATO does not require taxpayers to make FOI requests for access to routine information such as copies of returns and payment summaries.

- d. As at 28 February 2013, the ATO has 28 requests that remain outstanding where we have failed to meet the processing times outlined in the FOI Act. Please see AET 910 c above for explanation of ATO failure to meet processing times.