

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 2012

18 October 2012

Question: SBT 681-689

Topic: Freedom of Information (ATO)

Written: Received from Committee – 26 October 2012

Senator BUSHBY asked:

681. Has the department/agency received any updated advice on how to respond to FOI requests?
682. What is the total cost to the department/agency to process FOI requests for 2011-12?
683. How many FOI requests did the department/agency receive in 2011-12?
684. How many requests were denied and how many were granted?
685. Did the department fail to meet the processing times outlined in the FOI Act for any requests?
 - a. If so, how many?
 - b. Do any of these requests remain outstanding?
686. What is the total cost to the department to process FOI requests for this financial year to date (26 October 2012)?
687. How many FOI requests has the Department received for this financial year to date (26 October 2012)?
688. How many requests have been denied and how many have been granted?
689. Has the department failed to meet the processing times outlined in the FOI Act for any requests?
 - a. If so, how many and why?
 - b. Do any of these requests remain outstanding? If so, how many and why?

Answer:

681. 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 (updates were made to the guidelines 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 review of a freedom of information decision, and publication of telephone numbers of officers). 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 – 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.

682. In 2011-12, the known salary and external legal cost to the ATO to process FOI requests was \$6,333,259. This includes the salary cost of dedicated FOI decision makers but excludes the ATO salary costs for staff involved in search and retrieval work as ATO systems do not capture this information.

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683. In 2011-12, the ATO received 973 requests.
684. In 2011-12, the ATO denied 188 requests, granted in full 227 requests and granted in part 546 requests. 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.
685. (a) In 2011-12, the ATO failed to meet processing times in 258 (27%) of the 961 cases decided.
- (b) In 2011-12, there were 16 cases that had been received in that financial year and not completed within the processing time. Nine of those cases were still open at 26 October 2012. 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.
686. In 2012-13 to 31 October 2012, the known salary and external legal cost to the ATO to process FOI requests was \$2,028,343 (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.
687. In 2012-13 to 26 October 2012, the ATO has received 258 FOI requests.
688. In 2012-13 to 26 October 2012, the ATO has denied 38 FOI requests, granted in full 39 FOI requests and granted in part 193 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.
689. (a) In 2012-13 to 26 October 2012, the ATO has failed to meet the processing times outlined in the FOI Act in 74 (27%) of the 270 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.
- (b) None of those were still open at 26 October 2012.