

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2015

Agriculture

Question: 155

Division/Agency: Service Delivery Division

Topic: Non Australian Citizens Employed by the Department/Agency

Proof Hansard page: Written

Senator LUDWIG asked:

1. What is the Department/Agency's policy with regard to hiring non-Australian citizens?
2. Does the agency have a culturally and linguistically diverse (CALD) policy? If yes, please provide a summary.
3. How does the Department/Agency determine whether a person is a non-Australian citizen?
4. How many staff who were not Australian Citizens have been hired by the Department/Agency since the Federal Election in September, 2013? Please break the numbers down by:
 - a. Levels at which they are employed
 - b. Immigration Status (Visa)
 - c. Cultural Background
 - d. Linguistic Background
 - e. How many were hired to satisfy CALD targets?

Answer:

The Department of Agriculture and its Portfolio Agencies:

1. Employment of non-citizens is conducted in accordance with APS regulations and processes.

Question: 155 (continued)

2. The department has a Culturally and Linguistically Diverse Network (CALD) that is championed by a First Assistant Secretary. The role of the network is to provide input into the departments Diversity Strategy and Action Plan and operates as a forum for employees to discuss issues, share information and collaborate on improvements to support employees from a culturally and linguistically diverse background in the workplace. The network meets on a quarterly basis.
3. The department and its portfolio agencies require 100 points of identification confirming citizenship, including passport, birth certificate and/or extract or citizenship certificate. Prospective employees are required to indicate via a mandatory citizenship identification question within recruitment processes.
4. Records indicate that since September 2013 the department and portfolio agencies have on-boarded 14 staff who were not citizens:

a.

Employment Classification	Number
Executive Level 1.05	1
APS Level 6.06	11
Meat Inspector Level 2.1	1
Grains Research & Development Corporation (non-APS classification)	1

- b. Records indicate all staff on-boarded either received a waiver or had appropriate visa status at time of employment.
- c. Information on applicant cultural background is not collected as part of departmental or portfolio agency on-boarding processes.
- d. Information on applicant linguistic background/s is not collected as part of departmental or portfolio agency on-boarding processes.
- e. Not applicable, see response to Question 2.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2015

Agriculture

Question: 156

Division/Agency: Service Delivery Division

Topic: Departmental Dispute Resolution

Proof Hansard page: Written

Senator LUDWIG asked:

1. How are disputes between departmental and/or agency staff mediated?
2. Are any outside firms contracted to assist with this process? If yes: please list them, please include:
 - a. The structure of payments made to each firm (e.g. retainers, fees for each consultation etc).
 - b. Amount paid to each firm since the last budget.
 - c. When the contract with the firm commenced.
 - d. When the contract with the firm will expire.
 - e. Why the firm was selected to provide the service.
 - f. Please provide a list of alleged violations referred to the firm, including a brief description of the alleged violations.
3. How are code of conduct violations by departmental and/or agency staff mediated?
4. Are any outside firms contracted to assist with this process? If yes: please list them, please include:
 - a. The structure of payments made to each firm (e.g. retainers, fees for each consultation etc).
 - b. Amount paid to each firm since the last budget.
 - c. When the contract with the firm commenced.
 - d. When the contract with the firm will expire.
 - e. Why the firm was selected to provide the service.
 - f. Please provide a list of alleged violations referred to the firm, including a brief description of these alleged violations.

Question: 156 (continued)

Answer:

Department of Agriculture

1. The department encourages employees to resolve disputes at the local level, that is within the team environment, either through constructive discussion between the individuals or with some intervention by the manager. The department has a number of guidelines to assist employees and managers with these types of discussions. Where a dispute cannot be resolved between the individuals involved, or with minimal manager intervention, the matter may be referred to the relevant People Services team for further assistance but this is not always the case. A manager may seek external assistance to resolve an employee dispute. For example the manager may contact the department's Employee Assistance Provider and in these cases the information about the resolution process is confidential. If the dispute relates to allegations of possible breaches of the APS Code of Conduct the dispute will be referred to the Integrity and Conduct team for consideration in accordance with the department's *Procedures for Determining Breaches of the APS Code of Conduct*. (see the response to question 3 for further information about this).
2. (a to e) The department has a contract for the provision of an Employee Assistance Program with Optum Health & Technology (Australia) Pty Ltd. Mediation services can be accessed through this service. Full details of this arrangement are available on Austender – ATMID is 09688.

(f) Because the department encourages employees to resolve disputes at the local level it is possible that managers have sought the services of the EAP but details are not kept centrally.
3. Allegations of misconduct (alleged breaches of the APS Code of Conduct) against departmental employees are not mediated. They are referred to the Integrity and Conduct team for consideration in accordance with the department's *Procedures for determining breaches of the APS Code of Conduct*. Where the allegations require formal investigation the decision maker may choose to appoint an external investigator from the panel of investigation providers listed on Austender.
4. Panel members are contracted through a Deed of Standing Offer for investigation of misconduct allegations. Information about this panel is available on Austender – ATMID is DAFF 171-09.

Rural Industries Research and Development (RIRDC)

1. RIRDC has an Issue Resolution Policy.
2. No, however we do have an Employee Assistance Program (EAP) that could be called upon if required.

Question: 156 (continued)

3. From the RIRDC Enterprise Agreement :
 - a. Allegations of breaches of the Code of Conduct or other misconduct will be dealt with in accordance with the principles of natural justice. The process for dealing with the allegations will be carried out with as little formality as possible and will be undertaken as quickly as possible, while allowing for proper consideration of matters involved.
4. No.

Fisheries Research and Development (FRDC)

1. Disputes are handled as per the FRDC Complaints and Grievances policy and procedure.
2. If required the disputes may be referred to the Fair work Australia if requested or required, as per the FRDC's Employee policy.

Nil departmental disputes have occurred at FRDC requiring outside firms to assist.

3. All staff and directors sign the FRDC's "Code of conduct" and no code of conduct violations have been reported.
4. N/A.

Australian Grape and Wine Authority (AGWA)

1. Interviews are held with each of the parties separately and detailed documentation made of the discussions. If the issue is resolved, no further action is taken, and all notes relating to the issue will be secured confidentially on the staff member's personnel file. If, after internal investigation and resolution, a dispute is not resolved, the matter is referred to the Chief Executive Officer, who will determine the appropriate action to be taken.
2. No, outside firms are not contracted to assist with this process.
3. No code of conduct violations have required mediation. If mediation were required, it would be carried out in accordance with internal performance management policy.
4. No, no outside firms and contracted to assist with this process.

Cotton Research and Development Corporation (CRDC)

1. In accordance with CRDC's Grievance and Dispute Resolution Policy an employee must first attempt to resolve the matter with the relevant employees and supervisor. If the matter is not resolved then it is referred to more senior levels of management or Board Chair. Should the matter not be resolved in an agreed time frame either party may elect to refer the dispute to Fair Work Australia for mediation.
2. No.
3. In accordance with CRDC's Performance Counselling and Disciplinary Policy the employee may request an appropriate support person be present during counselling or disciplinary meetings. CRDC may suggest mediation as per the Grievance and Dispute Resolution Policy.
4. No.

Question: 156 (continued)

Australian Fisheries Management Authority (AFMA)

1. The Australian Fisheries Management Authority (AFMA) has a number of processes for managing disputes across the areas of employment terms and conditions, performance management, work health and safety and code of conduct. The procedures and processes for those specific areas are detailed in the AFMA Enterprise Agreement 2011, AFMA's Performance Development Scheme, Reporting and Determining Breaches of the Code of Conduct procedures and AFMA's Respect – Ensuring a positive workplace culture free from Bullying and Harassment Policy.
2. AFMA currently has a contract with Davidson Trahaire Corpsych to provide the Employee Assistance Program (EAP) to AFMA. It is an external service provided free to all staff and their immediate families to assist in dealing with personal, family and work related issues. The contract for the 2014-2015 Financial Year was \$8200. This contract is due to expire on 30 June 2015. AFMA is currently negotiating the renewal of this contract with Davidson Trahaire Corpsych for the 2015-2016 financial year.

Davidson Trahaire Corpsych also has a *Conflict at Work* program which provides mediation services when disputes arise.

- a. Mediation services are provided at \$250.00 per hour.
 - b. Nil for *Conflict at Work* mediation.
 - c. 2004.
 - d. Current contract due to expire 30 June 2015.
 - e. The Employee Assistance Program for AFMA staff was reassessed in 2014. This reassessment found that Davidson Traihare Corpsych were considered to be best value for money and provided the services which best suit AFMA's needs.
 - f. AFMA did not refer any disputes to Davidson Traihare Corpsych for the 2014-2015 Financial Year.
3. If a determination is made that an APS employee has breached the Code of Conduct, a sanction may not be imposed unless reasonable steps have been taken to inform the employee of the determination, the sanction or sanctions that are under consideration and the factors that are under consideration in determining any sanction to be imposed. The employee must be given a reasonable opportunity to make a statement in relation to the determination and the sanctions that are under consideration (usually 7 days). The employee may also be counselled or other management action may be taken in order to reduce the risk of further breach of the Code. If a sanction(s) is imposed on the employee, the employee must be given a written statement setting out the findings on material questions of fact and refer to the evidence or other material on which those findings were based. The employee would be offered the services of the Davidson Trahaire Corpsych Employee Assistance Program (EAP).

Question: 156 (continued)

4. To date where a determination has been made that an APS employee has breached the Code of Conduct, AFMA has not contracted outside firms to assist with this mediation process.
 - a. Not applicable.
 - b. Not applicable.
 - c. Not applicable.
 - d. Not applicable.
 - e. Not applicable.
 - f. Not applicable.

Grains Research and Development Corporation (GRDC)

1. As per the Dispute Resolution Process as outlined in the GRDC Enterprise Agreement 2011-2013.
2. No.
3. As per the Dispute Resolution Process as outlined in the GRDC Enterprise Agreement 2011-2013.
4. No.

Australian Pesticides and Veterinary Medicines Authority (APVMA)

1. Depending on the type of grievance the following APVMA policies are adhered to:
 - Performance Management Framework
 - Review of Actions policy
 - Workplace bullying and harassment policy

Grievances are handled internally and informally in the first instance by:

- discussion between the parties;
- discussion between the parties involved with the assistance of a more senior manager;
or
- discussion between the parties involved with the assistance of the Human Resource Director and/or CEO.

After all internal processes have been exhausted without resolution, external conciliation/mediation service providers are sought.

Question: 156 (continued)

2 Optum Inc.

- a. Fees for each consultation after an approved quotation.
- b. \$968 has been paid since the last budget.
- c. Contract commencement 1 July 2014.
- d. Contract expiry 30 June 2016.
- e. Employee Assistance Program contract includes this service.
- f. As a small agency the APVMA is concerned that provision of this information may identify individuals and, without the consent of the individual(s) being sought and obtained, potentially breach the Australian Privacy Principles, in particular APP 6 – use and disclosure of personal information.

3. The APVMA adheres to the following policies in relation to alleged misconduct matters:

- Guidelines for handling suspected and determined breaches of the APS code of conduct; and
- Procedures for Determining Breaches of the APS Code of Conduct and for Determining Sanction.

Not all suspected cases of breaches of the Code of Conduct need to be dealt with by implementing formal misconduct procedures. With minor misconduct, or in cases where suspected misconduct appear to be atypical behaviour, other approaches such as using alternative forms of dispute resolution (such as mediation), issuing warnings to staff, counselling (noting further similar conduct could lead for formal action) may be the most effective way to manage the behaviour and resolve the issue If the matter is found to be a minor misconduct.

4. There are two external service providers contracted to assist with alleged code of conducts.

CPM Reviews

- a. Fees for each consultation after an approved quotation.
- b. No payments have been made since the last budget, however there are two investigations underway which are yet to be finalised and final fees determined.
- c. Inclusion Deed commencement 20 September 2014.
- d. Inclusion Deed expiry 19 September 2016.
- e. The APVMA utilised an Inclusion Deed to source the Department of Agriculture Deed of Standing Offer for Investigation of misconduct allegations panel.

Question: 156 (continued)

- f. As a small agency the APVMA is concerned that provision of this information may identify individuals and, without the consent of the individual(s) being sought and obtained, potentially breach the Australian Privacy Principles, in particular APP 6 – use and disclosure of personal information.

Quality Management Solutions

- a. Fees for each consultation after an approved quotation.
- b. No payments have been made since the last budget, however there is one investigation underway which is yet to be finalised and final fee determined.
- c. Inclusion Deed commencement 29 May 2015.
- d. Inclusion Deed expiry 12 December 2015.
- e. The APVMA utilised an Inclusion Deed to source the Australian Taxation Office Deed of Standing Offer 10.98 Administrative Investigations and Review Services Panel.
- f. As a small agency the APVMA is concerned that provision of this information may identify individuals and, without the consent of the individual(s) being sought and obtained, potentially breach the Australian Privacy Principles, in particular APP 6 – use and disclosure of personal information.