

Department of Finance

Response to Question on Notice

SENATE SELECT COMMITTEE ON JOB SECURITY

Inquiry into Job Security

Hearing of 27 August 2021

Written Question on Notice 1 (Senator Sheldon)

Mr Yannopoulos said at the Hearing when asked by Senator Canavan about whether labour hire has grown in the APS:

“I think we could pull some information, because the names of the labour hire firms, particularly the major firms, have been consistent names over some period of time. So we could pull information out of AusTender which would at least disclose the value of contracts let to these entities.”

Using this same approach, please confirm:

- a. The total expenditure of the Australian Government on labour hire contracts in each of the last five financial years.
- b. The approximate number of workers this expenditure covers.

Response

It is not possible to identify total expenditure by the Australian Government on labour hire contracts from AusTender data. The contract values on AusTender represent the total maximum value of each contract over its life, including where contracts span multiple years. AusTender data does not reflect annual expenditure or collect details such as the number of individuals engaged under a contract.

Individual portfolios will hold information on their individual contractual arrangements with labour hire firms and associated expenditure.

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Written Question on Notice 2 (Senator Sheldon)

The Thodey Review found that expenditure on labour contractors had increased by almost 250% between the 2013 and 2017 financial years. Why was there such a substantial increase?

a. If the response to Question 1 reveals a continued increase since 2017, why has it increased further?

Response

The Department of Finance does not collect data on expenditure on labour hire contractors beyond the contract value drawn from AusTender. Any increase in expenditure on labour hire contractors over financial years would reflect the decisions of individual entities in providing government services over that period of time.

Questions relating to specific statements in the Thodey Review should be directed to the Department of the Prime Minister and Cabinet.

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Written Question on Notice 3 (Senator Sheldon)

Mr Yannopoulos said of the proportion of labour hire in the APS:

“The numbers appear higher than we would understand...As I’ve testified earlier, we don’t have an overall figure, but one in five to me seems high.”

What evidence is there to substantiate this claim?

Response

As Mr Yannopoulos stated at the Hearing of 27 August 2021, the Department of Finance does not hold data on labour hire in the Australian Public Service.

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Written Question on Notice 6 (Senator Sheldon)

Is there a policy or standard for the duration of time for which a job is considered to be short-term or surge, and subsequently is appropriate to be filled by labour hire?

- a. If yes, what is that duration?
- b. If a job is likely to be required for 3 years or more, is there any requirement, policy or other expectation that it should not be engaged through labour hire?
- c. If a job is likely to be required for 5 years or more, is there any requirement, policy or other expectation that it should not be engaged through labour hire?
- d. If a job is likely to be required for 10 years or more, is there any requirement, policy or other expectation that it should not be engaged through labour hire?

Response

While there is no specific policy or standard for the duration of time for which a job is considered to be short-term or surge, generally ASL is used to implement ongoing policies where it can be demonstrated that it is essential and more effective to deliver client services and labour hire is used for the implementation of terminating proposals.

Decisions on the resourcing for new policy proposals are made by Government as part of agreeing to new measures and take into account a range of factors. This has included decisions from Governments over time to provide services, or develop the infrastructure to deliver services, through a range of mechanisms including outsourcing, longer term contractual arrangements to access skills and expertise and other hybrid approaches.

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Written Question on Notice 9 (Senator Sheldon)

What is the purpose of the ASL Cap?

Response

Please see the response to Question on Notice 10.

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Written Question on Notice 10 (Senator Sheldon)

If the purpose, or a predominant purpose of the ASL Cap is to limit expenditure on workforce, but the resulting spend on labour hire is actually more expensive than direct employment, what purpose is the ASL cap actually serving?

Response

It is not the predominant purpose of the ASL controls to limit the cost and size of the workforce supporting public administration.

The purpose of the ASL controls is to help promote the Government's flexible and sustainable approach to resourcing, using the most appropriate forms of talent sourcing based on need. They ensure that workforce planning occurs on an agency-wide basis, as opposed to a siloed approach for programs or organisational units. They reinforce the need for agencies to prioritise the use of existing experienced staff where they are available to deliver new programs and avoid unnecessary and wasteful loss of talent as old programs terminate.

When agreeing resourcing requirements, the ASL controls require that agencies first inform the Government whether there are opportunities to reprioritise resources from other activities before requesting additional ASL. Where activities cannot be undertaken within existing staffing resources, an assessment is made as to whether ASL or other delivery methods (such as partnerships with external providers of specialist services where that is more effective to meet contemporary challenges) are the most appropriate way to deliver policy outcomes. Accordingly, ASL caps for portfolios are only one part of the system of ASL controls.

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Written Question on Notice 11 (Senator Sheldon)

Which dependents and agencies are at or near their ASL Cap, and what proportion of APS departments and agencies does this represent?

Response

ASL caps exist at a portfolio level, not at the entity level.

Portfolio level ASL caps change to reflect the decisions of Government and are adjusted to reflect new policy decisions. As a result, most portfolios are expected to operate close to their ASL caps.

Entity ASL estimates are reported in Budget Paper No. 4 and in portfolio budget statements. Actual ASL outcomes are reported in entity annual reports.

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Written Question on Notice 12 (Senator Sheldon)

Which agency, department or official is responsible for enforcing compliance with the Commonwealth Procurement Rules?

Response

Commonwealth procurements are audited by the Australian National Audit Office as part of their compliance program to ensure entity compliance with the Commonwealth Procurement Rules.

Under the Commonwealth Procurement Framework, each entity is responsible for its own procurement processes and decisions. It is the responsibility of Accountable Authorities to assure themselves regarding their procurement practices, and to report non-compliance within their entity. Paragraph 2.3 of the Commonwealth Procurement Rules requires non-corporate Commonwealth entities to report non-compliance through the Commonwealth's compliance reporting process. Section 19 of the *Public Governance, Performance and Accountability Act 2013* requires that Accountable Authorities notify their responsible Minister and the Minister for Finance, as soon as practicable, of any significant non-compliance with finance law.

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Written Question on Notice 13 (Senator Sheldon)

How is compliance with the Commonwealth Procurement Rules enforced, particularly with regard to the rules surrounding value for money?

Response

When assessing value for money, an official must consider the relevant financial and non-financial costs and benefits of each submission including, but not limited to, the quality of the goods and services, fitness for purpose of the proposal and whole of life costs. For procurements valued over \$4 million (or over \$7.5 million for construction works), an official must also take into consideration the economic benefits to Australia as part of considering value for money.

It is the responsibility of Accountable Authorities to assure themselves regarding their procurement practices, including rules surrounding value for money, and to report non-compliance within their entity.

Paragraph 2.3 of the Commonwealth Procurement Rules requires non-corporate Commonwealth entities to report non-compliance through the Commonwealth's compliance reporting process. Section 19 of the *Public Governance, Performance and Accountability Act 2013* requires that Accountable Authorities notify their responsible Minister and the Minister for Finance, as soon as practicable, of any significant non-compliance with finance law.

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Written Question on Notice 14 (Senator Sheldon)

How many audits, or other review or enforcement activities, have been undertaken of compliance with the CPRs, with regard to labour hire procurement contracts, over the last 5 years?

- a. Please provide the details outcome of each of these

Response

The Department of Finance is responsible for maintaining the Commonwealth Procurement Framework, however it does not have a compliance role in Commonwealth procurements.

Section 16 of the PGPA Act places a duty upon each Accountable Authority to establish appropriate internal control systems to ensure compliance by their entity.

Commonwealth procurements are audited by the Australian National Audit Office (ANAO) as part of their compliance program to ensure entity compliance with the Commonwealth Procurement Rules. Entities own internal audit teams may also audit their entity's procurement processes.

Any questions relating to audits undertaken by ANAO into labour hire procurement contracts would be best directed at the ANAO.