Australian Government

Australian Law Reform Commission

ALRC submission on the effect of the efficiency dividend on small agencies

30 June 2008

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1. The Australian Law Reform Commission (ALRC) makes the following submission to the Joint Committee of Public Accounts and Audit in relation to its inquiry into the effect of the efficiency dividend on small agencies.

2. The ALRC recognises that efficiency dividends have been implemented by successive federal governments, and by some state and territory governments. The ALRC's comments in this submission primarily focus on the impacts on small agencies of efficiency dividends in general, rather than the impact of any particular efficiency dividend.

About the ALRC

3. The ALRC is an independent statutory authority that operates under the *Australian Law Reform Commission Act 1996* (Cth) (the ALRC Act). The primary function of the ALRC, as set out in s 21 of the ALRC Act, is to advise the Parliament and Australian Government on reform of areas of the law referred to it by the Attorney-General.

4. In 2007–08, the ALRC had an average staffing level of 18.7 full-time equivalent employees,[1] and three full-time Commissioners, providing a total of 21.7 full-time equivalent personnel. The ALRC's total budget for 2007–08 was $3,545,000, of which $3,382,000 (95%) was funded by the ALRC's appropriation from Government. The balance of revenue is derived from sources such as sale of publications. The ALRC is heavily dependent on its budget appropriation because it would be inconsistent with the ALRC's statutory functions—and would present significant potential for real and perceived conflicts of interest—to generate a significant amount of funds from non-budget sources.

Disproportionate impacts on small agencies

5. In the view of the ALRC, the efficiency dividend has a disproportionate impact on small agencies, primarily as a result of the limited capacity of small agencies to achieve significant savings in core operating expenses.

[1] This figure includes contractors engaged to relieve staff on maternity leave.

6. Because the primary output of the ALRC is research and policy advice, remuneration is the Commission's major area of expenditure. The budget for salary-related expenses, including remuneration of Commissioners, is $2,244,691 in 2007–08, or 63% of the ALRC's total budget. Under the ALRC's current collective agreement, salaries increase at the rate of 4.2% per annum. This is less than the average annualised wage increase for Australian Public Service agreements lodged in the 12 months to 31 March 2008.[2] Remuneration for full-time Commissioners is set by the Remuneration Tribunal and typically increases by around 4.2 to 4.3% per annum.

7. The ALRC has a single office, based in Sydney. The cost of rent in 2007–08 is $506,142, or 14.3% of the ALRC budget. Under the terms of the ALRC's lease for office premises, rent increases at the rate of 4% per annum—which is a relatively common rate of increase in the Sydney property market.

8. Over 75% of the ALRC's annual expenditure is in these two areas—remuneration and office rental—both of which increase at 4% or more per annum. The other 25% of the ALRC's expenses increase at a similar rate. The Consumer Price Index—a reasonable indicator of increases in these other expenses—is forecast to have increased by an average of 3.2% per annum in the five years to 30 June 2009. This contrasts with the ALRC's appropriation, which will have increased by only 0.5% over the same period, as illustrated in Table 1.

Table 1: ALRC appropriations 2003–04 to 2008–09

	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	Average
Appropriation ($,000)	3,275	3,303	3,377	3,366	3,382	3,360	
% increase		0.9%	2.2%	-0.3%	0.5%	-0.7%	0.5%
rate of CPI[3]		2.50%	4.0%	2.1%	4.0%	3.5%	3.2%

9. As a small agency, the ALRC has very limited bargaining power. In relation to salary expenses, the ALRC needs to provide a similar level of salary increases to other public sector agencies in order to attract and retain skilled staff. In relation to office rental expenses, the ALRC has significantly less bargaining power than a large agency in rent negotiations. (In fact, the ALRC is aware that a large private sector tenant is paying approximately 7% less per square metre for its extensive lettings in the same building as the ALRC.) In relation to other general operating expenses and supplies, the ALRC has little market power, and few opportunities to achieve economies of scale.

10. The ALRC has made genuine attempts to reduce other general operating expenses but given that such expenses constitute a small proportion of the total budget, even significant

[2] Department of Education, Employment and Workplace Relations, *Key Pay Indicators Online*, <http://www.workplace.gov.au/workplace/Organisation/Government/Federal/Reports/KeyPayIndicatorsOnline.htm> at 24 June 2008.

[3] Consumer Price Index (CPI) rates for 2004–05 to 2006–07 are as published for the June quarter in each year by the Australian Bureau of Statistics in series 6401.0, *Consumer Price Index, Australia*, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/second+level+view?ReadForm&prodno=6401.0&viewtitle=Consumer%20Price%20Index,%20Australia~Mar%202008~Latest~23/04/2008&&tabname=Past%20Future%20Issues&prodno=6401.0&issue=Mar%202008&num=&view=&>. For 2007–08 and 2008–09 CPI rates are as forecast in the 2008–09 federal Budget—see <http://www.budget.gov.au/2008-09/content/overview/html/overview_41.htm> as at 24 June 2008.

savings have little impact on overall expenditure. For example, the ALRC is required to travel within Australia in order to ensure effective consultation on law reform issues, but travel expenses constitute only around 2% of total ALRC expenditure. A 20% saving in travel expenses would only reduce total expenditure by 0.4%. (The ALRC does, however, make every effort to reduce travel expenses. Although the President and Commissioners are entitled under Remuneration Tribunal determinations to fly business class within Australia, they voluntarily fly economy class to reduce costs.)

11. These factors mean that salary expenditure is one of the few areas in which the ALRC is able to reduce expenditure in order to accommodate reductions in the real value of appropriations over time.

Impact of the efficiency dividend on the capacity of the ALRC to perform core functions

12. The number of ALRC staff engaged in core corporate services is very low. Only 3.64 full-time equivalent employees are engaged in non-executive corporate support roles (including finance, payroll, reception and general administration). It would be difficult—if not impossible—to operate a federal statutory agency with any fewer human resources devoted to these core functions. Legislation and Government reporting requirements involve considerable compliance costs, which are in no way mitigated in small agencies. It is more difficult—and more costly—for small agencies to address some requirements. For example, fraud control advisers have recommended that ALRC maintain a separation of finance and payroll functions in order to reduce fraud risk, which has prevented the ALRC from achieving efficiencies that might be possible if these functions were combined.

13. A further two full-time equivalent employees are engaged in communications roles (including website maintenance, publications, events and media liaison). Given the importance of community engagement to the ALRC's law reform inquiries, it would be difficult to operate with any fewer staff in these roles.

14. The balance of the ALRC's personnel—on average 74% in 2007–08—are directly engaged in the ALRC's core legislative function of legal research and policy advice on issues referred by the Attorney-General.[4] Ironically, for the reasons outlined above, this is one of the few areas in which the ALRC has any capacity to reduce expenditure. Reducing the number of legal staff would have a direct impact on the ALRC's capacity to conduct law reform inquiries, by making it difficult to undertake two significant inquiries at a time, meet tight deadlines and ensure widespread national community consultation.

Measures taken by the ALRC to implement the efficiency dividend

15. As a result of the cumulative effect of previous efficiency dividends, the ALRC had already intended to reduce the level of legal staff by approximately one full-time equivalent position in 2008–09, in order to operate within budget.

16. Following the implementation of the additional 2% efficiency dividend, the ALRC's appropriation for 2008–09 is $67,000 less than forecast at the time of the 2007–08 Budget. This reduction is approximately equivalent to the average salary for an ALRC legal officer. As

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[4] These include legal officers, full-time Commissioners, the Executive Director and the Research unit.

a result, the ALRC plans to operate in 2008–09 with one less legal officer than previously planned.

17. The net effect of these changes in staffing will be a reduction in the number of legal officers employed by the ALRC, from approximately nine full-time equivalent employees through most of 2007–08 to approximately seven full-time equivalent employees in 2008–09. This will have a significant impact on the time required to complete an inquiry, which will, in turn, further delay the law reform process.

Possible alternatives to an across-the-board efficiency dividend

18. There is evidence that small agencies have limited capacity to reduce core operating expenses in response to efficiency dividends and that as a result, core functions are more significantly affected by efficiency dividends in small agencies than in large agencies. If efficiency dividends are implemented in the future, the ALRC would support an approach that mitigates against the disproportionate effects on small agencies. This might be achieved through quarantining very small agencies from some or all efficiency dividends or applying a lower rate of efficiency dividend to small agencies.