

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 240
Hearing: Budget Estimates
Outcome: Corporate
Programme: Policy and Communications Division
Topic: Portfolio wide – legal costs
Hansard Page: N/A
Question Date: 26 May 2014
Question Type: Written

Senator Ludwig asked:

1. List all legal costs incurred by the department or agency since Additional Estimates in February, 2014
2. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
3. List cost spend briefing Counsel, broken down by hours spend briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
4. How was each piece of advice procured? Detail the method of identifying legal advice

Answer:

1. *External costs*

The Department of the Environment (the Department) and its portfolio agencies are required each year to report on their legal services expenditure under the *Legal Services Directions 2005*. This information must be provided to the Office of Legal Services Coordination within 60 days of the end of financial year. These reports are often also published on the departmental or agency websites each year.

External legal expenditure data will be compiled following the end of the financial year. Compiling figures for the Department's (and portfolio agencies') external legal spend at this time, outside of the regular reporting cycle, would involve an unreasonable diversion of resources at this time.

Internal costs

The Department and its portfolio agencies spent the amounts set out in the table below on the salaries and on costs of internal lawyers for the period 1 March 2014 to 26 May 2014.

Department/agency	Amount spent on internal legal services within the Department/agency during the period 1 March 2014 to 26 May 2014 (ex. GST)
Department of the Environment	\$826,462.94
Director of National Parks	\$152,555.60
Murray-Darling Basin Authority	\$110,881.60
Great Barrier Reef Marine Park Authority	\$169,568.69*
National Water Commission	\$0.00
Sydney Harbour Federation Trust	\$0.00
Bureau of Meteorology	\$83,242.00
Climate Change Authority	\$0.00
Clean Energy Regulator	\$352,140.00**
Low Carbon Australia Limited	\$0.00
Portfolio-wide total	\$1,694,850.83

* **Note 1:** These figures were provided by the Great Barrier Reef Marine Park Authority for the period 1 March 2014 to 23 June 2014.

** **Note 2:** These figures were provided by the Clean Energy Regulator for the period 1 March 2014 to 31 May 2014.

2. As discussed at 1 above, providing details relating to external legal advice outside of the regular reporting cycle would involve an unreasonable diversion of the Department's (and portfolio agencies') resources at this time.

Further, the Australian Government does not generally disclose to the public details about the legal advice it obtains. It is important for any government to be able to make fully informed decisions based on comprehensive and confidential legal advice. Providing these details may undermine the protection of the confidentiality of the Australian Government's legal advice.

3. As discussed at 1 above, the Department is required each year to report on its legal services expenditure under the *Legal Services Directions 2005*. These reports provide information on costs spent briefing Counsel, and specify number of briefs to male and to female counsel, number of direct and number of indirect briefs to male and to female counsel and total value of briefs to male and to female counsel.

As at 1 above, this information must be provided to the Office of Legal Services Coordination within 60 days of the end of financial year. These reports are also published on the departmental or agency websites each year. This data will be compiled following the end of the financial year and providing such figures now would involve an unreasonable diversion of resources to compile outside of the regular reporting cycle.

Counsel is generally engaged by the Department and its portfolio agencies, taking into account advice from solicitors instructed by the Department or relevant portfolio agency in the matter in question, in accordance with Appendix D to the *Legal Services Directions 2005*.

4. The Department and some of its portfolio agencies have internal legal staff who can provide legal advice to the extent that it is practicable to do so. Some portfolio agencies do not maintain any internal legal capacity and obtain advice from either the Department or external legal services providers.

The Department and its portfolio agencies are required to obtain any external domestic legal services from the Australian Government Solicitor or legal services providers on the multi-use list maintained by the Attorney General's Department. Advice procured from external legal service providers is sourced in accordance with these requirements.