

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 2012

30 May 2012

Question: BET 676-679

Topic: Freedom of information (ATO)

Hansard Page: Written (13/6/12)

Senator BUSHBY asked:

676. Has the Department/agency received any updated advice on how to respond to FOI requests?
677. What is the total cost to the department to process FOI requests for this financial year to date?
678. How many FOI requests has the Department received for this financial year to date?
- a) How many requests have been denied and how many have been granted?
 - b) Has the department failed to meet the processing times outlined in the FOI Act for any requests? If so, how many and why?
 - c) Do any of these requests remain outstanding? If so, how many and why?
679. How many conclusive certificates have been issued in relation to FOI requests for this financial year to date?

Answer:

676. 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* as updated from time to time (19 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 an freedom of information (FOI) 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 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.

677. The total cost to the ATO to process FOI requests for 2011-12 to 31 May 2012 was \$5,764,635.

The total cost includes salaries and non-labour costs, but does not include the salary costs of some ATO staff involved in search and retrieval work. These costs are not included as ATO systems do not capture this information.

The total cost also includes \$3,100,326 in external legal expenditure. About 50% of this legal expenditure was for the processing of just six large cases (less than 10% of the number of cases for which the ATO incurred external legal expenditure).

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678. For 2011-12 to 31 May 2012, the ATO received 912 FOI requests. The ATO made decisions in 891 cases:

FOI requests 1 July 2011 to 31 May 2012	
FOI requests received	912
Withdrawn by applicant before decision was made	81
Transferred to another agency	1
Access In full	217 (24% of cases finalised)
Part access	494 (55% of cases finalised)
Refused access	177 (20% of cases finalised)
Access in another form	3 (<1% of cases finalised)
Finalised (of all requests not withdrawn)	891 ¹
¹ This figure includes all requests finalised in this period, which would include requests received prior to 1 July 2011.	

The ATO failed to meet processing times in 248 (28%) of matters decided during 2011-12 to 31 May 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 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.

As at 31 May 2012, there were 22 overdue cases awaiting a decision. Generally, these cases are taking an extended period of time to finalise because of the large number of documents covered by the requests. The applicants have been advised of the delay, and of the likely response date. All overdue matters are monitored at regular case call-overs with a view to ensuring they are completed as quickly as possible.

679. There were no conclusive certificates issued in relation to ATO freedom of information requests in 2011-12 to 31 May 2012. (Note: conclusive certificates were abolished in 2009 by the *Freedom of Information (Removal of conclusive Certificates and Other Measures) Act 2009 (Cth)*.)