

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

**Budget Estimates**

5 June 2013

**Question: BET 1015-1018**

**Topic: Freedom of Information (ATO)**

**Written**

**Senator BUSHBY asked:**

- 1015. Has the department/agency received any updated advice on how to respond to FOI requests?
- 1016. What is the total cost to the department/agency to process FOI requests for this financial year to date?
- 1017. How many FOI requests has the department/agency received for this financial year to date?
  - a. How many requests have been denied and how many have been granted?
- 1018. Has the department failed to meet the processing times outlined in the FOI Act for any requests?
  - a. If so, how many and why?
  - b. Do any of these requests remain outstanding?
    - i. If so, how many and why?

**Answer:**

- 1015. 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* (the Act) as updated from time to time. These guidelines were updated in 2012-13. Changes ranged from stylistic changes to substantive changes.

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. Those notes can be found at [http://www.dpmc.gov.au/foi/guidance\\_notes.cfm](http://www.dpmc.gov.au/foi/guidance_notes.cfm).

For voluminous Freedom of Information (FOI) 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.

- 1016. In 2012-13 to 31 May 2013, the known salary and external legal cost to the ATO to process FOI requests was \$4,603,163. This includes the salary cost of dedicated FOI decision makers but excludes the salary costs for staff involved in search and retrieval work as ATO systems do not capture this information.
- 1017. In 2012-13 to 31 May 2013, the ATO received 825 FOI requests.
- 1017 a In 2012-13 to 31 May 2013, the ATO denied 93 FOI requests, granted in full 121 FOI requests and granted in part 490 FOI requests. Some of these decisions relate to requests received in 2011-12 and some of the cases in 2012-13 have not yet been determined. Requests are not granted in full if an exception applies under the FOI law. The most common applicable exception is that disclosure would breach the taxpayer confidentiality provisions of the tax law.

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1018. Yes

1018 a In 2012-13 to 31 May 2013, the ATO failed to meet the processing times outlined in the FOI Act in 114 (16%) of the 704 cases decided.

The failure to meet processing times was generally attributable to the number, size and complexity of requests received by the ATO. The ATO does not require taxpayers to make FOI requests for access to routine information such as copies of returns and payment summaries.

1018 b As at 31 May 2013, the ATO had 25 requests outstanding which are outside the processing times outlined in the FOI Act. Please see BET 1018 (a) above for an explanation of the delay.