

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
ADDITIONAL BUDGET ESTIMATES 2015

Prime Minister and Cabinet Portfolio

Department/Agency: Australian Public Service Commission

Outcome/Program: 1.1

Topic: APS EBAs

Senator: Collins

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Type of question: Written

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Question:

Bargaining Process

1. How many APS Agencies have approval from the APSC and the Department of Finance to put offers before their employees?
 - a. Can you provide a list of these agencies?
2. How many APS agencies have had their offers rejected by the APSC and the Department of Finance?
 - a. Can you provide a list of these agencies?
3. How many APS agency offers are currently with the APSC and the Department of Finance for assessment?
 - a. Can you provide a list of these agencies?
4. How many agencies are expected to make an offer to their employees before the end of the Financial Year?
 - a. Can you provide a list of these agencies?
5. Are there still agencies that have yet to commence bargaining?
 - a. Is there a deadline for those agencies to issue their Notice of Employee Representational Rights so that bargaining can commence?
6. What are the main issues/sticking points in getting offers through the APSC and Department of Finance process?
7. Has the Minister or the new Commissioner met with the CPSU or any other employee representative organisations?

Superannuation

8. Can you confirm that agencies are being instructed by the APSC to remove reference to 15.4% employer superannuation contribution from agreements?
9. Which agencies have sought to remove 15.4% from draft enterprise agreements?
10. Are agencies able to retain the current clause regarding 15.4% superannuation no matter which fund the employee has chosen?
11. Has the APSC formulated this policy position, or are they acting on instruction from the Government?

Other Conditions

12. Has the APSC provided information to Agencies on how they can lift productivity?
 - a. What kind of productivity gains would satisfy the APSC?
 - b. Would extending the work day by nine minutes satisfy the APSC?
 - c. What productivity gains have been submitted to the APSC by agencies that haven't been accepted?

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13. According to the CPSU, agencies are asking employees to give up rights and entitlements that have a very low cost like consultation, the right to representation, and clauses that promote diversity to fund possible pay offers. Is this at the direction of the APSC?
- a. How does the APSC quantify these entitlements?
14. Is there any standard/consistent advice being provided to agencies by the APSC on any of the following matters:
- d. The quantum of pay offers that will be approved
- e. Consultation
- f. Representational rights
- g. What might constitute an “enhancement” under the bargaining policy and therefore not be permitted
- h. Can copies of these APSC advices be provided?

Answer:

1. 21 agencies at 23 February 2015.
- a. Six agencies have had remuneration and productivity packages approved but have not yet put remuneration offers before employees. The naming of the agencies may prejudice their bargaining strategies.

The agencies which had put remuneration offers before employees as at 23 February 2015 are as follows:

- Australian Financial Security Authority
 - Australian Institute of Family Studies
 - Australian Taxation Office
 - Comcare
 - Department of Defence
 - Department of Employment
 - Department of Human Services (two separate proposals)
 - Department of Infrastructure and Regional Development
 - Department of the Prime Minister and Cabinet
 - Department of Veterans Affairs
 - Fair Work Ombudsman
 - Independent Hospital Pricing Authority
 - National Health Performance Authority
 - Parliamentary Budget Office
 - Safe Work Australia
2. On two occasions, the Department of Finance has advised that it did not consider remuneration packages could proceed as drafted owing to affordability concerns. Both the APSC and Finance frequently ask agencies for further information or clarification on proposed remuneration and productivity packages.
3. It is not possible to provide a definitive figure, as this changes on a daily basis due to the iterative nature of the approval process.
- a. It is not possible to provide a list, for the reason outlined above.
4. The timing of the tabling of remuneration and productivity packages is a matter for agencies to determine, taking into account the circumstances of their enterprise bargaining.

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5. A small number of APS agencies have yet to commence bargaining.
 - a. The Fair Work Act provides no deadline for employers to commence bargaining.
6. The issues that emerge as agencies develop their proposals vary from agency to agency. It is not possible to provide specifics, but the APSC and agencies discuss issues relating to policy, implementation, and calculation of the value of initiatives.
7. Yes.
8. The APSC was advising agencies that the employer superannuation contribution figure is a matter that is dealt with in legislation and should not be repeated in enterprise agreements. Recently, in an attempt to facilitate agreement with employees, agencies have been advised that they may retain current superannuation clauses, where they so wish.
9. The APSC has provided comment against the bargaining policy on more than 100 draft agreements. Two agreements were approved by Ministers to go to a vote. Neither included the employer superannuation contribution figure.
10. Yes.
11. The Commission took this decision about the application of the bargaining policy after consulting the Minister.
12. The nature of possible productivity gains will depend on the agency and its operations. The APSC has been involved in many discussions with agencies where ideas have been canvassed. The APSC has not provided a definitive guide to productivity improvement.
13. The bargaining policy provides that agencies are required to demonstrate that proposed agreements do not contain clauses which may unduly restrict management's ability to operate efficiently and effectively; that agreements not include matters better dealt with in legislation; and that consultation arrangements are consistent with those in the model consultation term in the Fair Work Regulations and do not include additional prescriptive or restrictive arrangements.
 - a. The APSC does not quantify the productivity gains generated from such measures.
14.
 - a. Remuneration increases must be affordable and offset by productivity gains.
 - b. Agencies are encouraged to establish consultation arrangements directly with employees. The policy requires that enterprise agreements include consultation terms that do not extend the scope of the model consultation term in the Fair Work Regulations.
 - c. Agencies must ensure an employee's right to belong, or to not belong, to a union is respected. Consultation should occur with employees, and not unreasonably favour one group of employees over another.
 - d. The bargaining policy states that there should be no enhancements without Ministerial approval to core APS terms and conditions, relative to the current enterprise agreement in operation in that agency. The APSC has provided advice to agencies that assists them to comply with this aspect of the policy.
 - e. Much of this advice has been provided verbally and in meetings, in response to the individual circumstances of each agency. Providing copies of advice that deals with the matters described above would be an unreasonable diversion of agency resources, and in many cases not possible where this advice was not in writing.