

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING : 17 October 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(SE16/011) - BMA Lawyers - Internal Product (DIBP)

Senator McKim, Nick (L&CA 59/60) asked:

Senator McKIM: My question relates to a contract awarded to the BMA Lawyers for Immigration Advice and Application Assistance Scheme services. The contract period, on my understanding, was 1 August 2011 to 31 July 2016, at a total cost of \$11.67 million. How much of that \$11.67 million was paid to BMA Lawyers?

Mr Pezzullo: Is this a contract engaged in by my department?

Page 60 Senate Monday, 17 October 2016

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE

Senator McKIM: I understand that it is, yes.

Mr Pezzullo: I will see whether Mr Manthorpe has anything that he could illuminate this issue with.

Mr Manthorpe: In short, I do not think I do. We do run the immigration advice assistance scheme—

Senator McKIM: You do run it?

Mr Manthorpe: Yes. We can take on notice the amount spent on a particular contract, but I do not have that sort of detail with me today.

Senator McKIM: The reason I am asking this is that, as of 5 January this year, BMA Lawyers are in liquidation, and the principal of the company has fled Australia owing the Australian tax office \$3.7 million. Do you know nothing about this whatsoever?

Mr Manthorpe: I am not aware of the contractual matter at hand but will take it on notice.

Mr Pezzullo: Perhaps you could pass us the relevant details. There might be other offices in the department who are seized this matter, but neither Mr Manthorpe nor I are.

Senator McKIM: If it is going to be taken on notice, could you also take on notice, as I asked earlier, how much of the \$11.67 million that I understand the department contracted to BMA Lawyers was handed over to BMA Lawyers. What has been the impact on clients of the immigration advice and assistance program of BMA Lawyers going into liquidation? Who is currently providing the services that BMA Lawyers were contracted to provide, if anyone actually is?

Mr Pezzullo: Noting that that might be a panel arrangement, so there might be other legal firms involved—but we will look into it.

Senator McKIM: Thank you. Also, what acquittals were done over the period of the contract to ensure that services that were contracted for were actually delivered to a satisfactory standard?

Mr Pezzullo: We understand the question, thank you.

Answer:

Under the Immigration Advice and Application Assistance Scheme (IAAAS) Deed of Agreement, the Commonwealth paid BMA Lawyers (operating as Florin Burhala and Associates and BMA Lawyers¹) \$11,014,669.08 (GST inclusive) between the commencement of the contract in 2011 and 9 July 2015. The Deed of Agreement with BMA Lawyers ceased on 31 July 2016.

In addition, the Commonwealth paid \$33,721.96 to the Australian Tax Office (ATO) under a garnishee notice (issued 23 July 2015) in relation to two invoices from BMA Lawyers. There were no further invoices received from BMA Lawyers after the payment of the garnishee notice to the ATO on 8 September 2015 and the Department was notified on 11 January 2016 that BMA Lawyers had gone into liquidation.

At the time of liquidation, there were approximately 100 clients being provided application assistance services by the company.

Under the IAAAS scheme, payment is made to IAAAS providers on lodgment of a valid application. Providers have an obligation to continue to provide services through the visa assessment process.

As all of the clients' visa applications had been lodged at the time of BMA Lawyers going into liquidation, post-application services continued to be delivered consistent with the IAAAS Deed of Agreement. Post application services include attendance at interviews or assistance with reviews. These services were provided by UAM Lawyers on behalf of BMA Lawyers.

There are currently three other IAAAS service providers located in Victoria and two national IAAAS providers who provide services to clients in the relevant area following the liquidation of BMA Lawyers.

It was open to any of BMA's clients to self-refer to other IAAAS providers, who would be paid a partial fee.

All invoices for IAAAS visa application services provided by BMA Lawyers underwent a verification process prior to payment. This process included checks to ensure that a valid visa application had been lodged and that the invoice had been correctly rendered and services provided.

¹ • The obligations of Florin Burhala and Associates under the original IAAAS Deed of Agreement were transferred to BMA Lawyers by a Deed of Novation on 1 January 2012.