

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

**Question No:** 192  
**Hearing:** Additional Estimates  
**Outcome:** Corporate  
**Programme:** Policy and Communications Division  
**Topic:** Portfolio wide - legal costs  
**Hansard Page:** N/A  
**Question Date:** 7 March 2014  
**Question Type:** Written

**Senator Ludwig asked:**

List all legal costs incurred by the department or agency since 7 September 2013

- a) 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
- b) 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)
- c) How was each piece of advice procured? Detail the method of identifying legal advice

**Answer:**

We note the following about our response:

- Only total figures for legal services have been provided. We have responded in this manner for two reasons, namely:
  - the Australian Government does not disclose the content of its legal advice without fully considering the implications of disclosure from a legal professional privilege perspective. It is important for any government to be able to make fully informed decisions based on comprehensive and confidential legal advice; and
  - the internal Legal Section of the Department of the Environment, and many of its portfolio agencies, do not comprehensively record their time spent in preparing legal advice, or seek to recover these costs from line areas on a time-cost basis.
- Figures provided relate to the period 1 September 2013 to 28 February 2014 (the Reporting Period). The Reporting Period encompasses the period of interest specified by Senator Ludwig and was used in this response to allow the Department of the Environment and its portfolio agencies to use complete months in calculating legal expenditure and therefore reduce the time and resource burden of responding to Senator Ludwig's questions.

a)

The amount spent by the Department of the Environment and its portfolio agencies on legal services (internally, externally and in total) during the Reporting Period is set out in the table below.

Department/agency	Amount spent on internal legal services within the Department/agency during the Reporting Period (ex. GST)	Amount spent on external legal services within the Department/agency during the Reporting Period (ex. GST)	Total spent on legal services within the Department/agency during the Reporting Period (ex. GST)
Department of the Environment	\$1,592,478.63	\$2,652,040.05	<b>\$4,244,518.68</b>
Director of National Parks	\$213,834.24	\$7,017.54	<b>\$220,851.78</b>
Murray-Darling Basin Authority	\$301,033.00	\$110,790.00	<b>\$411,823.00</b>
Great Barrier Reef Marine Park Authority	\$357,630.04	\$169,881.22	<b>\$527,511.26</b>
National Water Commission	\$0.00	\$0.00	<b>\$0.00</b>
Sydney Harbour Federation Trust	\$0.00	\$63,248.03	<b>\$63,248.03</b>
Bureau of Meteorology	\$168,489.00	\$324,644.00	<b>\$493,133.00</b>
Climate Change Authority	\$0.00	\$0.00	<b>\$0.00</b>
Clean Energy Regulator	\$579,769.00	\$172,231.55	<b>\$752,000.55</b>
Low Carbon Australia Limited	\$0.00	\$69,702.05	<b>\$69,702.05</b>
<b>Portfolio-wide totals</b>	<b>\$3,213,233.91</b>	<b>\$3,569,554.44</b>	<b>\$6,782,788.35</b>

b)

The amount spent by the Department of the Environment and its portfolio agencies on counsel, the ratio of direct briefs to indirect briefs, the ratio of male counsel to female counsel, and the method of engagement is set out in the table below.

Department/agency	Total spent on briefing counsel during the Reporting Period (ex. GST)	Ratio of direct briefs to indirect briefs Dir : Indir		Ratio of male counsel to female counsel M : F		Method of engagement (Departmental / agency or Ministerial)
Department of the Environment	\$175,215.48	Nil	20	14	6	Departmental
Director of National Parks	\$0.00	Nil	Nil	Nil	Nil	N/A
Murray-Darling Basin Authority	\$3,394.55	Nil	Nil*	Nil*	Nil	N/A
Great Barrier Reef Marine Park Authority	\$0.00	Nil	Nil	Nil	Nil	N/A
National Water Commission	\$0.00	Nil	Nil	Nil	Nil	N/A
Sydney Harbour Federation Trust	\$0.00	Nil	Nil	Nil	Nil	N/A
Bureau of Meteorology	\$0.00	Nil	Nil	Nil	Nil	N/A
Climate Change Authority	\$0.00	Nil	Nil	Nil	Nil	N/A
Clean Energy Regulator	\$3,412.50	Nil	1	1	Nil	Agency
Low Carbon Australia Limited	\$0.00	Nil	Nil	Nil	Nil	N/A
<b>Portfolio-wide totals</b>	<b>\$182,022.53</b>	<b>Nil</b>	<b>21</b>	<b>15</b>	<b>6</b>	<b>N/A</b>

c)

The Department of the Environment and its portfolio agencies procure legal advice either internally (where the Department or agency has the capacity to do so) or externally from legal services providers. External legal advice is obtained from firms listed on the Legal Services Multi-use List, published by the Office of Legal Services within the Attorney-General's Department.\*\*

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\* The Murray-Darling Basin Authority briefed two male counsel during the Reporting Period in a matter shared with Department of the Environment as lead agency. These figures have been reported as figures for the Department of the Environment.

\*\* We note the following exceptions to this statement:

- the Clean Energy Regulator indicated that it had received legal advice directly from the Office of International Law within the Attorney-General's Department on one occasion during the Reporting Period, being tied work relating to international law; and
- the Sydney Harbour Federation Trust indicated that it had used an external legal services provider on one occasion during the Reporting Period that was not listed on the Legal Services Multi-use List. This was because the provider had previously worked on the same matter, or a closely related matter, and possessed intimate knowledge of the subject matter.