

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
 Industry, Tourism and Resources Portfolio
 Budget Estimates 2005-2006, 30-31 May 2005

AGENCY/DEPARTMENT: DEPARTMENT OF INDUSTRY, TOURISM AND RESOURCES
 IP AUSTRALIA
 GEOSCIENCE AUSTRALIA
 NATIONAL OFFSHORE PETROLEUM SAFETY AUTHORITY
 TOURISM AUSTRALIA

TOPIC: LEGAL SERVICES

REFERENCE: WRITTEN QUESTIONS ON NOTICE

QUESTION No.129
 (Written QON)

Senator Ludwig asked:

What amount did the Department/Agency spend during the financial year 2004-05 on outsourced legal practitioners (including private firms, individuals, the Australian Government Solicitor and any others)?

ANSWER 86 A

Agency	Expenditure on outsourced legal services during 2004-05 (excluding GST)
Department of Industry, Tourism and Resources	\$5,667,454.16
IP Australia	\$252,802.30
Geoscience Australia	\$305,958.48
National Offshore Petroleum Safety Authority	Nil
Tourism Australia	\$803,705.00

QUESTION No.130
 (Written QON)

Senator Ludwig asked:

What was the budgeted amount for outsourced legal practitioners in 2004-05?

ANSWER 86 B

Agency	Budgeted amount for outsourced legal services in 2004-05 (excluding GST)
Department of Industry, Tourism and Resources	\$4,187,204
IP Australia	\$310,526.40
Geoscience Australia	\$331,943
National Offshore Petroleum Safety Authority	The National Offshore Petroleum Safety Authority (NOPSA) did not exist until 1 January 2005. NOPSA's budget for legal services for January to June 2005 was \$60,000.
Tourism Australia	Tourism Australia budgets for project delivery, not for individual components. Projects often incur legal costs and these costs form part of the overall project costs. In 2004-05, the specific budget for outsourced legal practitioners, not including situations identified above, was \$415,022.

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QUESTION No.131 and 132

(Written QON)

Senator Ludwig asked:

What amount did the Department/Agency spend on internal legal services? (Provide an estimate if exact amount is unavailable.)

Does the Department/Agency have an in-house legal section? If so, what was the 2004-05 actual cost of this section? What was the budgeted amount for this section in 2004-05? What is the budget amount for this section in 2005-06?

ANSWER

86 C : D

Agency	Expenditure on internal legal services during 2004-05
Department of Industry, Tourism and Resources	Yes, the Department does have an in-house legal branch. In 2004-05 the Department spent approximately \$1,225,810.52 on salary, salary-related and administrative expenses for its internal legal area. The pre-estimated amount for those items for 2004-05 was \$1,107,219.20. The budgeted amount for 2005-06 for the internal legal area's salary, salary-related and administrative expenses is \$1,512,843.
IP Australia	Nil expenditure on internal legal services. IP Australia does not have an in-house legal section.
Geoscience Australia	Nil expenditure on internal legal services. Geoscience Australia does not have an in-house legal section.
National Offshore Petroleum Safety Authority	Nil expenditure on internal legal services. NOPSA does not have an in-house legal section.
Tourism Australia	Nil expenditure on internal legal services. Tourism Australia does not have an in-house legal section.

QUESTION No.133

(Written QON)

Senator Ludwig asked:

What is the total projected expenditure on legal services for 2005-06 for the Department/Agency?

ANSWER

86 E

Agency	Total projected expenditure on legal services for 2005-06 (excluding GST)
Department of Industry, Tourism and Resources	\$6,976,856 – this includes external and internal legal services (not including overheads).
IP Australia	\$347,799.10
Geoscience Australia	\$250,000
National Offshore Petroleum Safety Authority	\$180,000
Tourism Australia	\$518,025

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QUESTION No.134

(Written QON)

Senator Ludwig asked:

Which organisations or individuals were contracted to provide legal services to the Department/Agency in 2004-05? In each instance, how much was each organisation or individual paid for these services?

ANSWER

86 F. G

Department of Industry, Tourism and Resources

The following table lists the firms that the Department sourced legal services from during 2004-05 and the total payments made to those firms. (All figures are GST exclusive.)

Firm	Expenditure 2004-05 (excluding GST)
Allens Arthur Robinson	\$864,975.63
Attorney-General's Department	\$73,541.23
Australian Government Solicitor	\$3,109,353.75
Tom Blackburn, Barrister	\$4,000.00
Blake Dawson Waldron	\$131,092.58
Elizabeth Collins, Barrister	\$9,251.07
Clayton Utz	\$347.73
Corrs Chambers Westgarth	\$713,262.17
Ian Harvey, Barrister	\$31,450.00
Stephen Lloyd, Barrister	\$1,375.00
Mallesons Stephen Jaques	\$425,509.34
Phillips Fox	\$3,185.00
Simpsons Solicitors Pty Ltd	\$10,158.38
South Australia Department of Treasury and Finance (reimbursement for shared legal costs on Commonwealth-State project)	\$289,952.28
Total	\$5,667,454.16

IP Australia

The following table lists the firms that IP Australia sourced legal services from during 2004-05 and the total payments made to those firms.

Firm	Expenditure 2004-05 (excluding GST)
Australian Government Solicitor	\$244,221.00
Gilbert & Tobin	\$400.00
Mallesons Stephen Jaques	\$2,442.70
Nicholas Dibb	\$4,988.70
Sparke Helmore	\$750.00
Total	\$252,802.40

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Geoscience Australia

The following table lists the firms that Geoscience Australia sourced legal services from between July 2004 and May 2005 and the total payments made to those firms.

Firm	Expenditure 2004-05 (excluding GST)
Australian Government Solicitor	\$11,298.20
Blake Dawson Waldron	\$7,737.65
Clayton Utz	\$64,900.93
Malleson Stephen Jaques	\$20,502.50
Minter Ellison	\$201,519.20
Total	\$305,958.48

National Offshore Petroleum Safety Authority

Not applicable. See response to Question No.109 above. NOPSA did not have any expenditure on outsourced legal services during 2004-05.

Tourism Australia

The following table lists the firms that Tourism Australia sourced legal services from during 2004-05 and the total payments made to those firms.

Location	Firm	Expenditure 2004-05 (excluding GST)
Australia	Gilbert & Tobin	\$516,748
Australia	Australian Government Solicitors	\$62,756
Australia	Corrs Chambers Westgarth	\$736
Australia	Clayton Utz	\$19,348
Australia	Blake Dawson Waldron	\$2,000
New Zealand	KTC	\$6,795
New Zealand	Langton Hudson	\$2,106
USA	Condon Forsyth LLP	\$35,877
UK	DLA LLP	\$18,931
Europe	GORG Rechtsanwaltler	\$5,935
Europe	Russell Cooke Solicitors	\$15,267
Europe	TLT Solicitors	\$5,784
Europe	DLA Piper Rudnick Gray Cary UK LLP	\$36,623
Japan	Hori & Associates	\$7,614
Hong Kong	Deacons	\$19,510
China	Deacons	\$13,725
Thailand	Deacons	\$4,775
Singapore	Deacons	\$3,557
Malaysia	Jeff Leong, Poon & Wong (in association with Deacons)	\$3,148
Taiwan	Alliance Law Offices (in association with Deacons)	\$4,689
Korea	Kim & Chang	\$17,781
Total		\$803,705

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QUESTION No.135

(Written QON)

Senator Ludwig asked:

Does the Department/Agency use an open tendering or select tendering process (as described in the Commonwealth Procurement Guidelines, p. 42) when procuring legal services?

ANSWER

86 H

Agency	Open tendering or select tendering when procuring legal services
Department of Industry, Tourism and Resources	The Department has a legal panel in place which was established through an open tendering process.
IP Australia	IP Australia has a legal panel in place which was established through an open tendering process.
Geoscience Australia	Geoscience Australia's principal legal adviser (Minter Ellison) was sourced through an open tender approximately three years ago. Geoscience Australia will be conducting an open request for tender for legal services in 2005-06.
National Offshore Petroleum Safety Authority	Open tendering will be used to procure legal services.
Tourism Australia	Tourism Australia has not gone to tender for legal services in the past five years. When Tourism Australia next tenders for new legal services, the Commonwealth Procurement Guidelines will be taken into account.

QUESTION No.136

(Written QON)

Senator Ludwig asked:

If a select tendering process is used: (a) which method of select tendering is used and (b) which firms or individuals are currently eligible to tender for legal services?

ANSWER

86 I

Agency	If select tendering is used, which method of select tendering is used and which firms are currently eligible to tender
Department of Industry, Tourism and Resources	Not applicable
IP Australia	Not applicable
Geoscience Australia	Not applicable
National Offshore Petroleum Safety Authority	Not applicable
Tourism Australia	Not applicable

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QUESTION No.137
 (Written QON)

Senator Ludwig asked:

If a multi-use list is used: (a) which firms or individuals are currently on that list and (b) when was the list last opened for applications?

ANSWER

86 J

Agency	If a multi list is used, which firms are on the list and when was the list last opened for applications
Department of Industry, Tourism and Resources	<p>The Department has established a panel of firms for legal services. The firms on the panel are:</p> <ul style="list-style-type: none"> • Australian Government Solicitor • Clayton Utz • Corrs Chambers Westgarth • Mallesons Stephen Jaques • Minter Ellison • Phillips Fox <p>The panel is the result of an open tendering process that was conducted earlier this year. The result of that process was decided in July 2005.</p>
IP Australia	<p>IP Australia has established a panel of firms for legal services. The firms on the current panel are:</p> <ul style="list-style-type: none"> • Australian Government Solicitor • Baker & McKenzie • Blake Dawson Waldron • Carter Newell • Clayton Utz • Corrs Chambers Westgarth • Deacons • Dibbs Baker Gosling • Gilbert & Tobin • Mallesons Stephen Jaques • Middleton Moore & Beveins • Nicholas Dibb • Phillips Fox • Price Waterhouse Coopers • Sparke Helmore <p>IP Australia is currently seeking a new legal panel. The Request for Tender stage has been completed and the tenders are currently being evaluated.</p>
Geoscience Australia	Geoscience Australia does not have a multi-use list.
National Offshore Petroleum Safety Authority	A legal panel will be put in place when the tender is let.
Tourism Australia	Currently a legal panel is used which was initially established several years ago.

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QUESTION No.138

(Written QON)

Senator Ludwig asked:

In 2004-05 did the Department/Agency obtain any legal services using a direct sourcing procurement process? If so, provide details including the name of the provider, the work involved and the cost.

ANSWER

86 K

Agency	Were any legal services obtained during 2004-05 using a direct sourcing procurement process
Department of Industry, Tourism and Resources	<p>In 2004-05 the Department had a legal panel which was set up through an open tendering process. The legal panel was not an exclusive arrangement. Below is a list of organisations from which legal services were directly sourced. The cost of the services is included. (All figures are GST exclusive.)</p> <ul style="list-style-type: none"> • Allens Arthur Robinson \$864,975.63 (legal services on joint Cth-State legislative project) • Attorney-General's Department \$73,541.23 (legal services tied to that Department) • Tom Blackburn, Barrister \$4,000.00 (legal services in relation to a dispute) • Elizabeth Collins, Barrister \$9,251.07 (legal services in relation to litigation) • Clayton Utz \$347.73 (Legal seminar costs) • Ian Harvey, Barrister \$31,450.00 (legal advice) • Stephen Lloyd, Barrister \$1,375.00 (legal services in relation to litigation) • Phillips Fox \$3,185.00 (specialist trade practices advice) • Simpsons Solicitors Pty Ltd \$10,158.38 (specialist trade mark registration services) • South Australian Department of Treasury and Finance \$289,952.28 (reimbursement for shared legal costs on Commonwealth-State project)
IP Australia	No.
Geoscience Australia	<p>Geoscience Australia directly sourced legal advice in relation to the following matters (all figures are GST exclusive):</p> <ul style="list-style-type: none"> • Australian Government Solicitor \$11,298.20 (advice in relation to the Financial Management and Accountability Act) • Blake Dawson Waldron \$7,737.65 (general commercial advice where Minters and other firms declared a conflict of interest) • Clayton Utz \$64,900.93 (industrial relations advice) • Malleson Stephen Jaques \$20,502.50 (potential contract dispute where Minters and other firms declared a conflict of interest)

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National Offshore Petroleum Safety Authority	No.
Tourism Australia	No.

QUESTION No.139
 (Written QON)

Senator Ludwig asked:

In 2004-05 did the Department/Agency procure any legal services under the thresholds required for 'covered procurements' (within the meaning of paragraph 8.6 of the Commonwealth Procurement Guidelines)? If so, provide details including the name of the provider, the work involved and the cost.

ANSWER

86 L

Agency	Were any legal services under the thresholds required for 'covered procurements' procured during 2004-05
Department of Industry, Tourism and Resources	<p>Yes. The relevant procurement threshold is \$80,000. Procurement from each member firm of the Department's legal panel (which, as noted above, was established through an open tendering process) exceeded that limit. Putting aside the tied legal services obtained from the Attorney-General's Department and the procurement of services from barristers in relation to litigation/disputes (as such services from barristers are exempted from the mandatory procurement procedures: see Appendix B to the Commonwealth Procurement Guidelines), the details of legal services procured under the threshold are as follows (all figures are GST exclusive):</p> <ul style="list-style-type: none"> • Clayton Utz \$347.73 (legal seminar costs) • Phillips Fox \$3,185.00 (specialist trade practices advice) • Simpsons Solicitors Pty Ltd \$10,158.38 (specialist trade mark registration services)
IP Australia	<p>Yes. The details of legal services procured under the threshold are as follows (all figures are GST exclusive):</p> <ul style="list-style-type: none"> • Gilbert & Tobin \$400.00 (attendance at IP workshop) • Mallesons Stephen Jaques \$2,442.70 (legal services in relation to new building project) • Nicholas Dibb \$4,988.70 (professional services re: complaint to Professional Standards Board) • Sparke Helmore \$750.00 (provision of legal services)

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Geoscience Australia	Yes. The details of legal services procured under the threshold are as follows (all figures are GST exclusive): <ul style="list-style-type: none"> • Australian Government Solicitor \$11,298.20 (advice in relation to the Financial Management and Accountability Act) • Blake Dawson Waldron \$7,737.65 (general commercial advice where Minters and other firms declared a conflict of interest) • Clayton Utz \$64,900.93 (industrial relations advice) • Malleson Stephen Jaques \$20,502.50 (potential contract dispute where Minters and other firms declared a conflict of interest)
National Offshore Petroleum Safety Authority	No
Tourism Australia	With the exception of the legal services obtained from Gilbert & Tobin (\$512,748), all services were under the \$400,000 threshold that applies to Tourism Australia. These services related to general legal advice on matters such as contract law, procurement and dispute resolution. Details of the expenditure per firm are provided in the response to question 132.

QUESTION No.140
 (Written QON)

Senator Ludwig asked:

In 2004-05 did the Department/Agency contract any legal firms to provide services other than legal services (such as consulting, conduct of policy reviews etc)? If so, provide details including the name of the firm, the project involved and the cost of the contract.

ANSWER

86 m

Agency	Were legal firms engaged during 2004-05 to provide services other than legal services
Department of Industry, Tourism and Resources	Yes. Clayton Utz were engaged to provide briefing on the insurance industry in Australia. The cost of the services was \$25,000 (GST exclusive).
IP Australia	No
Geoscience Australia	No
National Offshore Petroleum Safety Authority	No
Tourism Australia	No