Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Innovation, Industry, Science and Research Portfolio
Supplementary Budget Estimates 2011-2012
19 October 2011

AGENCY/DEPARTMENT: IP AUSTRALIA

TOPIC: IP AUSTRALIA ENTERPRISE AGREEMENT

REFERENCE: Written Question – Senator Heffernan

QUESTION No.: SI-38

1.   Taking a look at Section 58.5 (a) Remuneration Outcomes at page 32 of the IP Australia Enterprise Agreement can you please provide the following information:

      (a) What are the Gold, Silver, Green, Orange and Red ratings referred to at point 58.5(i) and (ii) and at Table 1?

      (b) What are the current criteria for achieving each of these ratings?

      (c) How does the achievement of these ratings impact on employee remuneration and career prospects within IP Australia?

      (d) Since the Agreement how many IP Australia employees have been promoted, stood over for promotion, demoted or had their employment terminated in accordance with these ratings?

2.   Taking a look at Section 58.5 (b) at page 33 of the IP Australia Enterprise Agreement can you please provide the following information:

      (a) At Table 2 in the column entitled 'Definition' there is a reference to various scores. For example in the box next to 'Superior' there is a reference to "a total score of 13 or higher out of 20". How are these 'scores' earned or allocated to an IP Australia examiner

      (b) Is correct that an IP Australia examiner will be allocated a score for accepting a patent application but not allocated a score for rejecting a patent application?

      (c) Is it correct that the scoring system in regard to the work undertaken by an IP Australia examiner in examining a patent application does not provide that examiner an opportunity to earn additional points for any additional work required by the rejection of a patent application?

      (d) Would it be fair to describe the performance ratings and outcomes in Table 2 to favour the acceptance of patent applications?

      (e) Is the time spent by an IP Australia examiner in the examination of a patent application reflected in the scoring referring to in Table 2? Please explain the process.

ANSWER

1. (a) The Gold, Silver, Green, Orange and Red ratings referred to are yearly performance ratings that are applied to employees of IP Australia who are classified in the APS1 to EL1 classifications of the Public Service.

    (b) Table 1, located in Section 58.5(a) on page 32 of the IP Australia Enterprise Agreement 2010-2011, lists the key messages that are related to these ratings. The ratings are given depending on the employee's performance against their roles and responsibilities given in the employee's conversation work plan.

    Some groups in IP Australia have created descriptors to give guidance as to the type of performance and behaviours which could be taken into account for each performance rating. As an example, a patent examiner who has been rated Green could be said to have (among other things):

    (i)   examined patents thoroughly, efficiently and competently;
    (ii)   accepted patents with a high presumption of validity;
    (iii)   prepared easily understood reports;
    (iv)   achieved a level of productivity meeting the agreed standard;
    (v)   used professional judgement to produce reports which meet the quality standards;
    (vi)   fostered a good team ethic; and
    (vii)   demonstrated a good work ethic.

    To achieve a silver rating, an examiner is expected to achieve at a higher level and stand out from the normal range of their peers.

    (c) The outcome for each rating is listed in Table 1. Regarding employee remuneration, with a rating of Green, Silver or Gold, the employee is entitled to a pay point advancement (assuming that they are not at the top pay point of their classification). An employee with an Orange or Red rating is not entitled to pay point advancement and they will be subject to either a performance improvement process or a formal review of performance, respectively. There are also pay points that are not accessible unless an employee has been given a Silver or Gold rating at least twice in a preceding 5 year time period (with the remaining ratings being at least Green).

    With respect to career prospects, there are a number of employee broadbands with specific levels which cannot be achieved unless the employee has achieved a Green rating (or above) and has been assessed as competent to advance. Otherwise, promotion within IP Australia is via merit based selection and so is independent of the above ratings.

    (d) During the term of the IP Australia Enterprise Agreement 2010-2011 (the previous Enterprise Agreement), only one employee was regressed to a lower pay point within their classification. This was as a result of an employee being unsuccessful in improving their work performance during a formal assessment process under IP Australia's performance framework. No staff have been promoted or terminated according to these ratings. As explained above, promotion is merit based and separate to the performance management ratings.

2. (a) The 'scores' are allocated only to employees of IP Australia who are classified in the EL2 classification of the Public Service. In the Patents business group of IP Australia only the Director of a patent examination section or an Assistant General Manager is classified at this level. All other members of the section are classified as EL1 or lower. As such, table 2 does not apply to patent examiners in general. For those employees who are classified at the EL2 level, the scores are allocated to these employees by their immediate supervisor and are awarded on the basis of the employee's performance against business and leadership outcomes specified in the employee's individual performance plan.

(b) As outlined above, the "scores" mentioned in Section 58.5 (b) relate to EL2 level staff not examiners.

(c) No. As noted above, table 2 does not apply to patent examiners in general.

(d) No. As noted above, table 2 does not apply to patent examiners in general.

(e) No. As noted above, table 2 does not apply to patent examiners in general.