



Australian Government

Department of the Prime Minister and Cabinet



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Mr Alistair Sands
Committee Secretary
Senate Standing Committee on Finance and Public Administration
Parliament House
CANBERRA ACT 2600

Budget Estimates Hearings of 23-24 May 2005 and 22-23 May 2006: correction of evidence

Dear Mr Sands

I wish to correct answers to questions direct on notice from Senator Ludwig, from the last two Budget Estimates Hearings of the Senate Standing Committee on Finance and Administration on 23-24 May 2005 (PM 70) and 22-23 May 2006 (PM 37), regarding legal services expenditure.

The Department of the Prime Minister and Cabinet provided an answer to PM 70 to the Committee on 25 July 2005, and PM 37 on 10 August 2006. Both questions related to external and internal legal services expenditure for the respective financial years.

The revised responses address errors which affected the previous answers given for expenditure on external legal services. During end of year adjustments and the preparation of the department's annual report on legal services expenditure (required by the Legal Services Directions) in October 2006, a small number of items were identified as having been incorrectly attributed to the legal services accounts. Consequently, for the purposes of accuracy, we also re-examined our response for the 2004-05 financial year and found again due to end of year adjustments that this figure should be corrected. The responses to PM 70 and PM 37 have been amended accordingly.

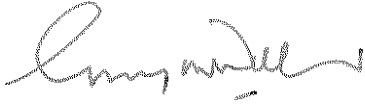
The revised responses have also amended totals for internal legal services to include an allowance for corporate overhead expenses, in accordance with the guidelines on Legal Services Directions expenditure reporting. To ensure consistency between reporting periods we are amending our answers regarding internal legal spend so that the revised answers will be consistent with the department's reporting obligations under the Directions.

The original response to PM 37 only included expenditure until 31 May 2006. The revised answer provides the total for the financial year.

I have attached a copy of the revised answers to PM 70 and PM 37 and would appreciate your bringing this matter to the attention of the Committee. For ease of comparison the original answers are also attached.

Should you have any questions or require further clarification please do not hesitate to contact me on 6271 5828.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Greg Williams', with a stylized, flowing script.

Greg Williams
First Assistant Secretary
People, Resources and Communications Division

25 October 2006

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department of the Prime Minister and Cabinet

Budget Estimates Hearings 2006-2007, 22-23 May 2006

Question: PM 37

Outcome 1, All Outputs

Topic: Legal services expenses

Direct on Notice

Senator Ludwig asked:

- (1) What sum did the department or agency spend during 2005-2006 on external legal services (including private firms, the Australian Government Solicitor and any others).
- (2) What sum did the department or agency spend on internal legal services.
- (3) What is the department or agency's projected expenditure on legal services for 2006-2007.

Answer:

1. The department incurred \$1,638,175 in expenses on external legal services for 2005-06 financial year.
2. The department estimates that it incurred approximately \$230,000 in expenses on internal legal services for 2005-06 financial year.

This answer has been prepared on the basis of the definition of 'internal legal services' used by the Australian National Audit Office in Audit Report No. 52 2004095, Legal Services Arrangements in the Australian Public Service, ie 'the procurement of legal services from within agencies through the employment of APS personnel with appropriate professional legal qualifications, or such persons collectively'.

Activities of the department coming within the ANAO definition of 'internal legal services' may also involve the provision of policy advice, so internal legal services are not necessarily directly comparable with, or able to be substituted by, external legal services.

In determining the department's internal legal services expenditure, relevant managers estimated the percentage of time spent by legally qualified staff on legal work. Approximate totals were derived using mid-range salaries, and include an estimate of entitlements and corporate overheads. Final amounts are rounded to the nearest \$10,000.

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Additional Estimates Hearings 2004-2005, 14 February 2005

3. The department's indicative budget for external legal services for 2006-07 is \$1,151,000.

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Department of the Prime Minister and Cabinet

Budget Estimates Hearings 2004-2005, 23 and 24 May 2005

Question: PM 70

Outcome 1, various Outputs

Topic: Legal service expenditure

Direct on Notice

Senator Ludwig asked:

- 1. What amount did the Department spend during the financial year 2004/2005 on outsourced legal practitioners (including private firms, individuals, the Australian Government Solicitor, and any others)?**
- 2. What was the budgeted amount for outsourced legal practitioners in 2004/2005?**
- 3. What amount did the Department spend on internal legal services? (Provide an estimate if exact amount is unavailable.)**
- 4. Does the Department have an in-house legal section? If so, what was the 2004/2005 actual cost of this section? What was the budgeted amount for this section in 2004/2005? What is the budget amount for this section in 2005/2006?**
- 5. What is the total projected expenditure on legal services for 2005/2006 for the Department?**
- 6. Which organisations or individuals were contracted to provide legal services to the Department in 2004/2005?**
- 7. In each instance, how much was each organisation or individual paid for these services?**
- 8. Does the Department use an open tendering or select tendering process (as described in the Commonwealth Procurement Guidelines, p 42) when procuring legal services?**
- 9. 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?**
- 10. 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?**
- 11. In 2004/2005 did the Department 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?**
- 12. In 2004/2005 did the Department procure any legal services under the thresholds required for 'covered procurements' (within the meaning of 8.6 of the Commonwealth Procurement Guidelines)? If so, provide details including the name of the provider, the work involved and the cost.**
- 13. In 2004/05 did the Department 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.**

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Answers:

1. The Department's total year expenditure on outsourced legal practitioners for 2004/05 was \$451,018.
2. Owing to the Department's normally relatively low spend on legal services, the Department had a budget allocation in 2004/05 for professional services generally, rather than a separate budget allocation for legal expenses.
3. The Department's estimated spend on internal legal services in 2004/05 is approximately \$60,000. In determining the department's internal legal services expenditure, relevant managers estimated the percentage of time spent by legally qualified staff on legal work. Approximate totals were derived using mid-range salaries, and include an estimate of entitlements and corporate overheads. Final amounts are rounded to the nearest \$10,000.
4. The Department has two sections called 'Legal Section'. One is located in Government Division: it is not a legal services unit, but rather provides legal policy and other policy advice. The other Legal Section is located in the APEC 2007 Taskforce: it provides legal services to the Taskforce, and is responsible for procurement of legal services for the Taskforce. The Taskforce's 2005-06 budget allocates \$106,563 for this section.
5. The APEC 2007 Taskforce has a total projected expenditure on legal services for 2005/06 of \$778,000. The remainder of the Department has a budget allocation for professional services generally, rather than a separate budget allocation for legal expenses; it is anticipated that expenditure on legal services in 2005/06 by the rest of the Department is likely to be in the order of \$400,000.
6. Attorney-General's Department; Australian Government Solicitor; Blake Dawson Waldron; Corrs Chambers Westgarth; Minter Ellison; Phillips Fox; and Wayne Sharwood, Barrister (Blackburn Chambers, Canberra).
7. Attorney-General's Department – \$9,177.
Australian Government Solicitor – \$312,132.
Blake Dawson Waldron – \$58,174.
Corrs Chambers Westgarth – \$100,383.
Minter Ellison – \$4,500.
Phillips Fox – \$11,000.
Wayne Sharwood – \$2,400 (not paid in 2004-05).
8. The Department does not employ a single method of procuring legal services. Each Division is responsible for the procurement of its own legal services as necessary in accordance with the requirements of the Department's Chief Executive Instructions (which require Divisions to have regard to the Commonwealth Procurement Guidelines).
9. Divisions are responsible for their own legal services procurement decisions, including determining the appropriate method of procurement. If a Division determines that it is appropriate to procure legal services through a select tendering process, it would be for the Division to determine the method used, including which firms or individuals would be eligible to tender, noting that the Department does not currently maintain a multi-use list of legal services providers.

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10. The Department apart from the APEC 2007 Taskforce does not maintain a multi-use list or panel arrangement for legal services providers. The APEC 2007 Taskforce issued open tenders on 13 May 2005 to appoint a panel of legal services providers and a panel of probity services providers for the Taskforce until the 2007 calendar year.
11. Divisions are responsible for their own legal services procurement decisions, including determining the appropriate method of procurement. All procurements made by Divisions in 2004-05, with the exception of legal services procured by the Department from Corrs Chambers Westgarth and Phillips Fox which were obtained through select tender processes, were made through some form of direct sourcing process (for example, contacting a firm directly or contacting a number of firms and seeking quotes for the legal services to be provided). All such procurements were not 'covered procurements' for the purposes of the Commonwealth Procurement Guidelines.

The Department obtained legal services from external legal services providers on a range of issues, including litigation, portfolio legislation and related work, commercial and contract law, and the Department's management functions. However, it is not considered appropriate for the Department to identify the specific issues in relation to which legal services were sought.

The details of legal services paid for or procured by the Department in 2004-05 engaged using some form of direct procurement method and the cost of each procurement are as follows:

Date of Invoice	Amount (\$)	Provider
21-Jun-04	2240	Australian Government Solicitor
22-Jun-04	975	Attorney-General's Department
22-Jun-04	82	Attorney-General's Department
25-Jun-04	4308	Australian Government Solicitor
7-Jul-04	960	Australian Government Solicitor
7-Jul-04	2240	Australian Government Solicitor
21-Jul-04	3381	Australian Government Solicitor
23-Jul-04	162	Australian Government Solicitor
10-Aug-04	832	Australian Government Solicitor
13-Aug-04	3279	Australian Government Solicitor
16-Aug-04	210	Australian Government Solicitor
27-Aug-04	3710	Australian Government Solicitor
8-Sep-04	2919	Australian Government Solicitor
10-Sep-04	2923	Australian Government Solicitor
10-Sep-04	1302	Australian Government Solicitor
10-Sep-04	1813	Australian Government Solicitor
14-Sep-04	165	Australian Government Solicitor
14-Sep-04	588	Australian Government Solicitor
14-Sep-04	175	Australian Government Solicitor
17-Sep-04	1716	Australian Government Solicitor
21-Sep-04	1932	Australian Government Solicitor
7-Oct-04	1568	Australian Government Solicitor

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15-Oct-04	2090	Australian Government Solicitor
20-Oct-04	30130	Australian Government Solicitor
27-Oct-04	2544	Australian Government Solicitor
28-Oct-04	245	Australian Government Solicitor
31-Oct-04	500	Australian Government Solicitor
15-Nov-04	1225	Australian Government Solicitor
15-Nov-04	14341	Australian Government Solicitor
15-Nov-04	1376	Australian Government Solicitor
18-Nov-04	3170	Australian Government Solicitor
29-Nov-04	1106	Australian Government Solicitor
15-Dec-04	770	Australian Government Solicitor
20-Dec-04	14836	Australian Government Solicitor
21-Dec-04	2926	Australian Government Solicitor
23-Dec-04	7789	Australian Government Solicitor
23-Dec-04	561	Australian Government Solicitor
23-Dec-04	10166	Blake Dawson Waldron
7-Jan-05	200	Attorney-General's Department
12-Jan-05	1248	Australian Government Solicitor
13-Jan-05	900	Australian Government Solicitor
21-Jan-05	3732	Australian Government Solicitor
28-Jan-05	4500	Australian Government Solicitor
31-Jan-05	5577	Blake Dawson Waldron
7-Feb-05	3435	Australian Government Solicitor
8-Feb-05	3148	Australian Government Solicitor
9-Feb-05	2074	Australian Government Solicitor
10-Feb-05	4956	Australian Government Solicitor
16-Feb-05	24000	Australian Government Solicitor
18-Feb-05	33	Australian Government Solicitor
18-Feb-05	99	Australian Government Solicitor
18-Feb-05	2727	Australian Government Solicitor
21-Feb-05	352	Attorney-General's Department
28-Feb-05	12586	Blake Dawson Waldron
11-Mar-05	815	Attorney-General's Department
15-Mar-05	1389	Australian Government Solicitor
16-Mar-05	4835	Australian Government Solicitor
17-Mar-05	3842	Australian Government Solicitor
30-Mar-05	21816	Australian Government Solicitor
31-Mar-05	9537	Blake Dawson Waldron
6-Apr-05	640	Australian Government Solicitor
6-Apr-05	6753	Attorney-General's Department
7-Apr-05	3933	Australian Government Solicitor
7-Apr-05	3072	Australian Government Solicitor
12-Apr-05	1788	Australian Government Solicitor
15-Apr-05	2078	Australian Government Solicitor
15-Apr-05	1242	Australian Government Solicitor
15-Apr-05	18350	Australian Government Solicitor
15-Apr-05	5005	Australian Government Solicitor
15-Apr-05	2107	Australian Government Solicitor
19-Apr-05	4137	Australian Government Solicitor

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21-Apr-05	2921	Australian Government Solicitor
30-Apr-05	2065	Australian Government Solicitor
5-May-05	3688	Australian Government Solicitor
13-May-05	840	Australian Government Solicitor
13-May-05	8261	Australian Government Solicitor
17-May-05	805	Australian Government Solicitor
17-May-05	3469	Australian Government Solicitor
19-May-05	1839	Australian Government Solicitor
19-May-05	1440	Australian Government Solicitor
19-May-05	997	Australian Government Solicitor
19-May-05	2244	Australian Government Solicitor
19-May-05	1120	Australian Government Solicitor
23-May-05	2475	Australian Government Solicitor
24-May-05	361	Australian Government Solicitor
26-May-05	4249	Australian Government Solicitor
27-May-05	204	Australian Government Solicitor
30-May-05	6535	Blake Dawson Waldron
31-May-05	11880	Blake Dawson Waldron
9-Jun-05	222	Australian Government Solicitor
10-Jun-05	490	Australian Government Solicitor
10-Jun-05	3036	Australian Government Solicitor
15-Jun-05	4550	Australian Government Solicitor
15-Jun-05	288	Australian Government Solicitor
15-Jun-05	4114	Australian Government Solicitor
16-Jun-05	2700	Australian Government Solicitor
17-Jun-05	3170	Australian Government Solicitor
17-Jun-05	1365	Australian Government Solicitor
20-Jun-05	5396	Australian Government Solicitor
24-Jun-05	23167	Corrs Chambers Westgarth
30-Jun-05	1893	Blake Dawson Waldron
30-Jun-05	10433	Corrs Chambers Westgarth
30-Jun-05	4500	Minter Ellison
30-Jun-05	4705	Australian Government Solicitor
Procured by PM&C but paid by OLSC	6503	Australian Government Solicitor
Procured by PM&C but paid by NWC	16928	Australian Government Solicitor
Procured by PM&C but paid by NWC	22664	Australian Government Solicitor
Not paid as at 30/06/05	2400	Wayne Sharwood
Not paid as at 30/06/05	12744	Australian Government Solicitor
Not paid as at 30/06/05	8878	Blake Dawson Waldron
Not invoiced as at 30/06/05	-	Australian Government Solicitor

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Not invoiced as at 30/06/05	-	Australian Government Solicitor
Not invoiced as at 30/06/05	-	Australian Government Solicitor

12. All legal services procurements made by the Department in 2004-05 were for services costing less than \$80,000 and were therefore not 'covered procurements' for the purposes of the Commonwealth Procurement Guidelines. The details of all non-covered procurements are provided in the Department's response to Question 11, with the exception of legal services procured through select tender processes from Corrs Chambers Westgarth and Phillips Fox. The details of those services are as follows:

Date of Invoice	Amount (\$)	Provider
27-Apr-04	11637	Corrs Chambers Westgarth
28-May-04	18580	Corrs Chambers Westgarth
29-Jun-04	33366	Corrs Chambers Westgarth
9-Feb-05	3200	Corrs Chambers Westgarth
30-Jun-05	11000	Phillips Fox Lawyers

13. No.