

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN GOVERNMENT SOLICITOR

Question No. 95

Senator Fierravanti-Wells asked the following question at the hearing on 20 October 2008:

The AGS' Annual Report 2006–2007 refers to the AGS as the “leading provider of legal and related services to Australian Government departments and agencies”.

- a) What is the total value of those legal and related services and what portion of the same did the AGS have in 2006–2007 such as to claim itself the “leading provider”?
- b) Is the AGS able to provide the value of legal and related services to Australian Government departments and agencies over the past 5 years?
- c) In relation to each of those past 5 years, what was the portion of total legal and related services which the AGS had and what was the value of the same?

The answer to the honourable senator's question is as follows:

- a) Under the *Legal Services Directions 2005* (as amended), departments and agencies subject to the *Financial Management and Accountability Act 1997* ('FMA agencies') are required to report on their annual legal services expenditure to the Office of Legal Services Coordination in the Attorney-General's Department. This requirement took effect on 1 July 2008 with reporting to OLSC to commence for the 2008–09 financial year. Previously, the Legal Services Directions required FMA agencies to publish their annual legal services expenditure in their annual reports.

As a Government Business Enterprise, the AGS does not have policy responsibility for compiling whole-of-government statistics on Commonwealth legal expenditure. However, the Attorney-General's Department advises that the total 2006–07 external legal expenditure of FMA agencies, as declared in their annual reports, was \$261.8m.

AGS estimates that the revenue it earned from FMA agencies in 2006–07 accounted for some 43% of this amount. Noting that the balance of 57% comprises expenditure on all the private legal firms competing in the Commonwealth legal services market, as well as counsel, AGS does not believe that any individual firm would have exceeded AGS's proportion of the external market for 2006–07.

- b) The requirement for FMA agencies to publish their legal expenditure was introduced with effect from 2005–06. Consequently, published figures on total external legal expenditure by FMA agencies are not available for 2004–05 or earlier. As a Government Business Enterprise, the AGS does not have policy responsibility for compiling whole-of-government statistics on Commonwealth legal expenditure. However, the Attorney-General's Department advises that the total 2005–06 external legal expenditure of FMA agencies, as declared in their annual reports, was \$207.1m (and \$261.8m for 2006–07 as stated in the answer to part a)).

As at 20 October 2008, a consolidation of the total external legal expenditure by FMA agencies with respect to 2007–08, as published in their annual reports, was not available.

- c) The requirement of agencies to report their legal spending has been present only recently and there is evidence that there is likely to be some inconsistencies in reporting between agencies and

between years. The new standard being introduced from 1 July 2008 should lead to improvement over time. The table below shows AGS's estimated revenue from FMA agencies for the last five years (total revenue for each year as published in AGS's annual reports less 5% which is the average proportion of AGS's annual revenue that is derived from providing legal services to clients other than FMA agencies). Because of the data uncertainties referred to above, the table below is not regarded as a reliable indicator of a trend.

	2003–04	2004–05	2005–06	2006–07	2007–08
Reported total external legal expenditure by FMA agencies	Not available	Not available	\$207.1m	\$261.8m	Not available
Estimated AGS revenue from FMA agencies	\$96.4m	\$103.2m	\$107.5m	\$113.5m	\$118.9m
Proportion of reported external legal services spending undertaken by AGS	-	-	52%	43%	-