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Reply To: Adelaide

Your Reference:

Our Reference:

1 August 2004



Mr Jonathan Curtis
Committee Secretary
Select Committee on the Administration of Indigenous Affairs
Parliament House
CANBERRA ACT 2600

Dear Mr Curtis

Inquiry into the Administration of the Indigenous Affairs

Further to my letter 30 July 2004 I enclose other information which form part of my Submission to the Inquiry as supplements:

1. Letter 20 August 2003 – Legal Aid and Access to Justice Inquiry
2. Letter 17 December 2003 – Legal Aid and Access to Justice Inquiry
3. Letter 22 April 2004 - ATSIIS Exposure Draft to Tender Indigenous Legal Services with attachment from ATSILS
4. Letter 30 April 2004 – To ATSILS / Mainstreaming of Indigenous Legal Services
5. Letter 30 April 2004 – To Members of Parliament / Abolition of ATSIC and Mainstreaming of Aboriginal Legal Services
6. ALRM Media Release (dated about 30 April 2004)

Yours sincerely,

Neil E Gillespie
Chief Executive Officer



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20 August 2003

COPY

The Secretariat
Senate Legal & Constitutional Committee
Room S1, 61 Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Legal Aid and Access to Justice Inquiry
ATSIS Presentation to Queensland Aboriginal and
Torres Strait Islander Legal Services

I confirm that ALRM has submitted a separate detailed submission to the Committee.

ALRM has made certain observations and identified some concerns about the ATSIS Law & Justice Branch presentation to the Queensland Aboriginal Torres Strait Islander Legal Services on the 8th August 2003,

In view of the significance of our observations, ALRM feels compelled to submit these and make comment as follows.

1. Ministerial Direction to the CEO of ATSIS

Observations

The Minister directs that the CEO of ATSIS should consider the needs of Indigenous Australians. Mr Ruddock also directs the CEO to pursue best practice in operations including outcome-based funding and performance-based contracts.

Furthermore, he also refers to efficiency and effectiveness.

Comments

The ATSIS CEO and his immediate predecessor have been informed on a regular basis the widening gap between ALRM's stagnant resources and its ability to satisfy increasing client needs.

The following Table demonstrates our funding which has been reduced significantly in real terms over recent years.

1996/7	1997/8	1998/9	1999/00	2000/1	2001/2	2002/3	To Dec/03
\$3.12m	\$3.23m	\$3.47m	\$3.40m	\$3.37m	\$3.35m	\$3.42m	\$1.74m

ALRM also welcomes initiatives in regard to best practise, as we have pursued ATSIC on this very issue over recent years.

ATSIC's Office of Evaluation and Audit recently assessed us, as provided in its Report of January 2003, where it is clearly demonstrated ALRM's efficiency in managing its resources, whilst at the same time recognising the increased demand on services. An example of efficiency / effectiveness is the private sector value of our services was adjudged \$9.2m in 2000/1, which is a very significant \$5.6m difference above our funding (slight discrepancy due to differing source figures).

2. ATSIC's Principles for Implementation of ATSILS Reforms.

Observations

We note the following Principles:

- Under Principle 2, reform to be on the basis of performance and efficiency.
- Under Principle 3, there is to be a gradual adjustment for efficiency but not major change and that any change will have to ensure that indigenous clients are not further disadvantaged in gaining access to critical services for law and justice.
- Principle 4 provides that ATSILS are best placed for effective delivery of legal services and also refers to cultural awareness as an element of program efficiency.
- Principle 5 says that implementation of any changes are to be consistent with ATSIC ATSILS contestability policy.
- Principle 7 says that services should continue to be delivered to Indigenous people by Indigenous governed organisations.

Comments

ALRM has been advised that its services are to be tendered. When the above is considered ALRM is asking the question why is ATSIC/ATSIS pursuing an aggressive agenda of tendering this organisation before outcome and performance-based arrangements are in place?

We recognise that we have experienced some governance concerns because of the behaviour of a dissident element within our Board, and which were recently raised at ALRM's *Change Management Workshops* held in Adelaide late July / early in August 2003. However these concerns are expected to be resolved in the future.

ATSIS needs to explain in an open and honest manner, why it is pursuing an agenda beyond its own principles.

3. ATSILS Contestability Policy

Observations

The policy provides for performance of ATSILS to be monitored and assessed against clear service specifications and output based measures. There is also an incumbency of six years (from 2001) after which time other potential providers at the discretion of ATSIC/ATSIS will open ATSILS to contestability.

Comments

ALRM has attempted to seek clarification as to why this timetable has been brought forward to 2003 (from 2007) and to date we are without a satisfactory explanation. Indeed ALRM has received a number of differing responses from both the elected arm of ATSIC and ATSIS staff.

It is considered incumbent upon ATSIC/ATSIS to explain fully its service specifications and performance measures so that ALRM may respond in a reasonable period of time. It is therefore inappropriate to be put to tender before we are provided with clear service specifications and output performance measures.

4. National State Directions Strategy.

Observations

- Under paragraph 6, ATSIC recognises that the population expansion of Indigenous peoples contributes to the increased demands for legal aid and related services.
- Under paragraph 7 the Office of Evaluation and Audit in its Report of January 2003 says that ATSILS provide an effective service at significantly less cost than mainstream legal aid.
- Under paragraph 8 it is recognised that ATSILS find it increasingly difficult to retain professional staff and deliver services to clients within existing budgets.
- Under Para 14 ATSIC commissioned an independent survey about the level of contestability. The study determined that an alternative market of non-indigenous service providers that could provide culturally sensitive and stable services was highly restricted and in many cases non-existent.
- Under paragraph 17 it is stated that ATSIC's elected arm has decided to adopt the competitive tendering approach for SA.
- Under paragraph 32 the L&J Branch where appropriate will liaise and consult with ATSILS about needs and future demands.

Comments

- ALRM has repeatedly sought increased funds yet ATSIC's has consistently denied ALRM sufficient funds to meet its expanded needs.

- When ALRM is regarded as one of the most efficient operations in the country, why is this organisation the first to be tendered ahead of the clearly defined contestability policy program.
- Evidence suggests that we are the most efficient, effective and culturally appropriate service provider in the State.
- ALRM contends that there are motives beyond good business sense in the decision to tender us when considering that ATSIC has not adhered to its own principles and policies.
- At this point in time the ATSIS L&J Manager Allen Hedger has not been in contact with the CEO of ALRM or it's Chairperson in regard to our needs in meeting the demands for our services.

Summary

ALRM is not against tendering or contestability. In fact we support the process and actually pursue best practice within our organisation.

However ALRM contends that to proceed to tendering by ATSIC/ATSIS is contrary to its own internal policies and reform decisions. It has not determined performance measures for ALRM nor consulted us, and has not followed its reform directions and contestability policy.

We seek the Senate's review of ATSIC/ATSIS conduct which has the potential of displacing a large number of Aboriginal staff should ALRM not be the successful tenderer.

Yours sincerely,

Neil E Gillespie
Chief Executive Officer