

SUBMISSION TO THE PRODUCTIVITY COMMISSION REVIEW OF COST RECOVERY BY COMMONWEALTH AGENCIES

This Submission covers the activities of the Department of Employment, Workplace Relations and Small Business (DEWRSB). Part 1 covers the cost recovered activities of the Department. Part 2 covers small business issues.

PART 1 – DEWRSB’S COST RECOVERED ACTIVITIES

Employment Business Systems

Background

The Employment Business Systems Branch of DEWRSB is responsible for development and maintenance of Information Technology systems which underpin the employment services market in Australia.

Job Network members, Community Work Coordinators and Community Support Programme agents are required to use DEWRSB’s Integrated Employment System (IES) to meet their contractual obligations.

Fee For Service Training

IES Training materials and basic information sessions are available to employment providers at no cost. Optional Fee for Service (FFS) training sessions, tailored to meet the needs of individual organisations and delivered on site, are also available to employment providers, on request.

Current FFS training charges are:

\$1000 Half day (up to four hours) training session plus GST (total of \$1100)

\$1500 Full day (up to eight hours) training session plus GST (total of \$1650)

In addition, travel costs (for the IES trainer) are paid by the provider and these vary according to the location of the provider and duration of the training programme(s). Travel costs include airfares, accommodation (if required), taxi or hire car fees and travel allowance costs (for meals and incidentals).

Cost Recovery

Costs for FFS training are negotiated with the requesting organisation prior to confirmation of training. Once training has been completed, an invoice is generated by the Divisional Administration Unit and standard payment processes apply.

Charges levied meet the costs of (unbudgeted) travel and help to meet the costs of preparing or tailoring training materials. In addition, it is considered that the charges levied help reduce any excessive or frivolous use of this service.

Feedback indicates that customers are more than satisfied with the quality of training provided and the charges levied.

Comment

It is considered that current charges and the administrative arrangements to recoup these monies are appropriate.

Labour Market Services (LMS)

Nature and Extent

Background

LMS Branch seeks to improve the efficiency of the Labour Market by intervening in the Labour Market through the Centrelink Business Partnership Arrangement and through the use of Information technology.

One of the key strategies in this programme is the deployment of a fleet of approximately 2500 touch screen units in both Centrelink Customer Service Centres and the sites of Job Network members.

The Touch screens are used to display information on available Jobs, work for the dole programs plus a directory of Job Network members.

Leasing of Touch Screens to Job network members

Whereas the TSUs deployed in Centrelink offices are connected through a purpose built communications network the TSUs allocated to Job Network members are a specially designed portable version referred to as Lite TSUs. These machine operate through conventional telephone lines.

There are approximately 760 lite units in the fleet of TSUs and approximately 2000 Job Network sites that are eligible to host these devices.

To ensure a fair and equitable distribution of the TSUs they are offered to the JNMs on a commercial lease basis for a leasing fee of \$2700 pa.

This fee covers delivery and installation, consumables and 5 data downloads per day and full technical maintenance. The JNM is in return is expected to make the machine available for public use and keep it in good order.

Comment

The \$2700 leasing fee represents only a component of the overall operating costs and these figures will be reviewed shortly.

Trades Recognition Australia

Nature and Extent

Trades Recognition Australia (TRA), part of the Department of Employment Workplace Relations and Small Business, administers the *Tradesmen's Rights Regulation Act 1946* (the TRR Act), which provides a national mechanism for the recognition of metal and electrical trades skills developed other than through a formal apprenticeship in Australia. TRA also assesses trade skills applications for pre-migration under Regulations to the *Migration Act 1958*.

The TRR Act enables cost recovery regulations to be made prescribing fees to be paid to the Department by applicants for an Australian recognised Trades Certificate (ARTC) that attest that the holder possesses qualifications equivalent to a completed Australian apprenticeship. Amendments to the regulations provided for new fee levels in relation to applications for trade certificates.

Regulations to the *Migration Act 1958* has provision for the charge of a fee for pre-migration assessment of trade skills to assist the Department of Immigration and Multicultural Affairs in its skilled migration program.

Fee Structure

The current fee structure for the TRR Act and the *Migration Act 1958* recovers direct costs. Changes to the TRR Act and *Migration Act 1958* fees and changes to the regulations under the TRR Act and the *Migration Act 1958* require Ministerial approval.

Level of cost recovery

For the TRR Act, TRA recovers the:

- direct running costs (salary and administrative expenses) for processing Australian resident applications through the standard application fee; and
- direct costs of trade tests on a national average basis.

For the Migration Act, TRA recovers the:

- direct running costs (salary and administrative expenses) for processing pre-migration applications; and
- full costs (direct running costs plus overheads) for processing priority pre-migration applications and assistance for special employer recruitment work.

Policy

The TRA fee policy is in line with the Government's user-pays policies. Some costs are not recovered because of the benefit of the public interest in encouraging a skilled workforce.

Office of Workplace Services

The Office of Workplace Services (OWS) provides inquiry, compliance, advisory and educative services to help employers and employees to understand their employment rights and responsibilities and to take advantage of the opportunities under the *Workplace Relations Act 1996* (the Act), federal awards and certified agreements.

OWS services provided to meet legislative requirements under the Act and directed to achieving compliance with the Act are delivered at no cost to the public. Examples are responding to telephone and written inquiries, investigation and resolution of claims of non-compliance with federal awards, certified agreements and Victorian Industry sectors, and provision of award and workplace relations information through the internet.

OWS also produces publications for sale to the public, conducts seminars aimed at providing information to business and other interested parties on topical workplace relations issues, and provides wages information by automated fax arrangement (in conjunction with a service provider). These services are not considered part of the legislative requirement for OWS services but instead are seen as added value to this legislative requirement. Such services are priced to achieve partial cost recovery. Costs recovered would not include those resources expended to produce a basic product or service under the department's information service obligations, but would include resources expended to add value to the product or service.

Other products or services provided by OWS that would attract a full cost recovery are defined as those that are discretionary in nature or not core business. Examples include speaking at corporate seminars on request or doing historical research on awards. Full cost recovery includes, but is not limited to, administrative costs, total salary costs, property operating expenses, and enabling expenses.

SES Remuneration Surveys

DEWRSB coordinates an annual survey of Senior Executive Service (SES) Remuneration. The impetus to conduct the SES Remuneration Survey came from the APS Round Table comprising Secretaries of portfolio Departments and large agencies, which expressed interest in obtaining up-to-date information on SES remuneration.

A remuneration consultant is engaged to conduct the survey, with agencies participating on a cost recovered basis. Cost is based on a differential pricing strategy based on the number of SES in each agency. [Those agencies participating in the SES survey also receive the results of a survey of non-SES remuneration. This analysis is conducted in-house and costs are absorbed by DEWRSB].

The cost of the consultancy is around \$130,000 each year, with DEWRSB contributing around \$50,000 towards the cost of the project.

Allowance Subscription Service

DEWRSB no longer has a central role in setting terms and conditions on an APS-wide basis as a result of the devolution of this responsibility to agencies. The allowance subscription service was introduced in 1999 following an identified need from agencies wishing to purchase rates rather than calculating allowances themselves. The subscription service provides a range of allowances including travelling allowance, remote locality allowances and motor vehicle allowance.

The costs (salary plus on-costs) of providing this service are fully cost recovered and the service will only be maintained while it remains financially viable to do so. Annual subscription fees are dependent upon the number of staff employed by an agency and range from \$542 for agencies with less than 40 staff to \$3,794 for agencies with more than 400 staff.

In 1999-2000, the service generated \$185,000 in subscriptions.

Consultancies

The consultancy service is seen as an adjunct to the policy role and aims to assist agencies to implement workplace relations arrangements that are consistent with Government policy. It provides workplace relations assistance to public sector agencies primarily relating to the development of certified agreements and Australian Workplace Agreements. Assistance in related areas such as award simplification and developing remunerations strategies has also been provided on a fee for service basis.

For most consultancies an hourly rate, covering salary and on costs (ie superannuation, etc.), is charged. The standard hourly rate is \$162. In some cases, such as award simplification, a flat fee is negotiated with the particular agency.

Educative Activities

- Seminars & other events
- Training
- Small agency network
- Publications

A range of educative activities is undertaken to complement the policy role of the Public Sector Teams. These activities are directed at Commonwealth public sector agencies and generally centre on promoting workplace reform such as agreement making, effective remuneration strategies, broadbanding and achieving a balance between work and family life.

The major purpose of these activities is to promote/reinforce Government workplace relations policy, with some costs being recovered in some instances. However, in some cases no charge applies. For example, publications produced this year have been considered to be part of WRI's core policy function and have been distributed free of charge. Where appropriate, consistent with its policy responsibilities, the department aims to recover direct costs associated with these educative activities, ie. costs other than salaries.

Personnel Operations Program

The Personnel Operations Program complements the Government's reform agenda in the public sector by providing training, information and networking services on Commonwealth pay and conditions to human resources practitioners in agencies. For example, the Program has been the sole provider of training to HR/personnel practitioners in agencies on the implementation of the Public Service Act 1999. All services are on a cost recovery basis, with revenue meeting salary and administration costs. Agencies may subscribe to the Program's services for an annual fee, and pay for training courses at a member rate. Alternatively, agencies can access training courses as non-members on a higher, fee-for-service basis. The cost of the Program is estimated at around \$230,000 this year.

PART 2 – SMALL BUSINESS

The Office of Small Business (OSB) in DEWRSB provides policy advice and support to portfolio Ministers on small business issues.

The review by the Productivity Commission of Cost Recovery by Commonwealth Agencies is welcomed by OSB and will be supported by organisations representing small business interests.

It is generally accepted that small businesses are disproportionately affected by the costs of government regulatory decisions, unnecessary red tape and needlessly complicated and time-consuming administrative systems.

While OSB is not aware of any recent research on the direct impact on small business of direct costs imposed by regulation or other government services, it is widely believed that the impact can act as an obstacle to competitiveness and entrepreneurship and even prevent new small business-start-ups.¹

Cost Recovery Principles

As part of the various consultative forums run by the OSB, small business organisations have generally indicated that they do not have a clear understanding of the Commonwealth's overall approach to cost recovery.

Small business organisations appear to accept, however, that different cost recovery approaches might apply to different activities carried out by government agencies such as regulatory, information and service delivery activities.

A clearer articulation of the overall policy approach and broad principles and guidelines for Commonwealth agencies when developing cost recovery regimes would therefore be welcomed by small business.

A clear connection between cost structures and standards of service delivery is regarded as an important step in gaining public acceptance of cost recovery by government agencies. The application of market testing principles to the development of cost structures and the setting of service standards is also important in this regard.

Cost Recovery Guidelines

The following topics have been identified by the OECD for consideration in best practice guidelines for user charging for government services²:

- a clear authority for organizational charges – this should be a general legal or financial framework but would not set precise amounts to allow for flexibility and adjustment of costs;

¹ The Industry Commission has estimated that the average small firm's overall compliance cost disadvantage relative to large firms might be around 1 percent of turnover - *Reducing the Regulatory Burden: Does Firm Size Matter*, Staff Research Paper, Ian Bickerdyke and Ralph Lattermore, p.xvi

² PUMA Policy Brief No. 3, Public Management Service, March 1998.

- consultation with users – this will serve to both communicate the rationale for the charges and enable users' views to be taken into account in designing and implementing the charging system;
- determine the full costs – this needs to be done and periodically reviewed whether or not the intention is to fully or only partially recover the costs;
- an effective and efficient collection system – this will maintain credibility of the charging regime (red tape associated with charging regimes would be of particular concern to small business);
- improve and monitor organizational performance – this will become a powerful management tool for improving organizational efficiency and service quality;
- treatment of receipts – this will be a significant budgetary issue;
- appropriate pricing strategies – this should be based on competitive market prices and fee structures should be simple but flexible;
- ensure competitive neutrality – this means, for example, that revenue from monopoly services not be used to subsidize commercial services and price structures are devised (and reviewed) so as to incorporate all costs that are faced by private sector service providers; and
- recognize equity considerations – this means, for example, that consideration would be given to reducing charges for users where a greater cost will represent an excessive financial burden.

Cost recovery regimes should be reviewed as an integral part of individual agencies' performance monitoring and evaluation. As part of this process, consideration should be given to the cumulative effect of government cost recovery regimes on individual businesses.

Consultation with Small Business

Commonwealth, State and Territory Small Business Ministers have endorsed two papers, *Giving small business a voice – Achieving best practice consultation with small business* and *Giving small business a voice – Developing strategies for informing small business about regulation*, designed to assist government agencies in their consultations with small business. A copy of each of the papers is attached.

The benefits of effective consultation with small business can include:

- getting perspectives and ideas for alternative options from small business and giving a voice to this less easily identifiable group of stakeholders;
- endeavouring to change the culture of regulation to be more inclusive of the needs of small business by using open and transparent methods to develop and adopt solutions to a public problem;
- improving government awareness of the regulatory needs of small business and enabling faster responses to changing conditions;
- identifying interactions between different sets and types of regulations impacting upon the operating environment of small business;
- providing a check on the regulator's assessment of costs and benefits to small business and whether the proposed option will work in practice;
- possibly enhancing voluntary compliance from small business through greater understanding and acceptance of a proposal, and thereby reducing reliance on enforcement and sanctions; and
- ongoing consultation processes may aid in the development of an open and trusting relationship between small business and government.

Regulatory Impact Statements

It is appropriate that cost recovery arrangements are considered as early as possible in the planning and policy development stages. The rationale and proposed approach to developing and implementing cost recovery mechanisms should be assessed as part of the Regulatory Impact Statement (RIS) required by the Office of Regulation Review (ORR). The ORR recommends the publication of the RIS as this will assist in the consultation process with industry, particularly the small business sector.

The ORR currently considers the following questions when considering the adequacy of the RIS:

- Is it clearly stated in the RIS what is the fundamental problem being addressed?
– and is a case made for why government action is needed?

- Is there a clear articulation of the objectives, outcomes, goals or targets sought by government action?
- Is a range of viable options assessed including, as appropriate, non-regulatory options?
- Are the groups in the community likely to be affected identified, and what will be the impacts on them? There must be explicit assessment of the impact on small businesses, where appropriate. Both costs and benefits for each viable option must be set out, making use of quantitative information where possible.
- What was the form of consultation? Have the views of those consulted been articulated, including substantial disagreements? If no consultation was undertaken, why not?
- Is there a clear statement as to which is the preferred option and why?
- Is information provided on how the preferred option would be implemented, and on the review arrangements after it has been in place for some time.

In addition and relevant to all of the above, is an overriding requirement that the degree of detail and depth of analysis must be commensurate with the magnitude of the problem and with the size of the potential impact of the proposals.

For proposals that maintain or establish restrictions on competition (such as barriers to entry for new businesses, or restrictions on the quality of goods and services available), it must be established that the benefits to the community outweigh the costs and the Government's objective can be achieved only by restricting competition. Both of these are requirements under the Competition Principles Agreement.

To encourage adequate consideration of options for cost recovery, it may be appropriate for cost recovery principles to be monitored by agencies as part of the Regulatory Performance Indicators (RPIs). The RPIs are designed to provide information on the extent to which agencies are implementing regulation reform measures rigorously and effectively, and allow benchmarking of agency performance. The RPIs are:

1. The proportion of regulations for which the Regulation Impact Statement adequately addressed net benefit to the community;
2. The proportion of regulations for which the Regulation Impact Statement adequately justified the compliance burden on business;
3. The proportion of regulations which provide businesses and stakeholders with some appropriate flexibility (as defined) to determine the most cost effective means of achieving regulatory objectives;
4. The proportion of cases in which external review of decisions (as defined) led to a decision being reversed or overturned;

5. The proportion of regulatory agencies whose mechanisms for internal review of decisions meet standards for complaints handling outlined in *Principles for Developing a Service Charter*, published by the Department of Finance and Administration;
6. Proportion of regulatory agencies having communications strategies for regulation, or formal consultative channels for communicating information about regulation;
7. Proportion of regulatory agencies publishing an adequate forward plan for introduction and review of regulation;
8. Proportion of regulations for which the Regulation Impact Statement included an adequate statement of consultation; and
9. Proportion of regulatory agencies with organizational guidelines outlining consultation processes, procedures and standards.

Conclusion

OSB is willing to participate in further consultations and in the development of cost recovery guidelines.