



Response to the Senate Inquiry into  
The administration and purchasing of  
Disability Employment Services in Australia

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## Preamble

The National Employment Services Association (NESA) is the peak body for Australian employment services. NESA was established in 1997 to be the voice of the industry and provide inclusive representation regarding the effective and efficient delivery of Australian employment services. NESA is the only National peak body whose membership includes community, private, public and Government sector organisations and which represents all employment service programs funded by the Australian Government.

Our membership includes extensive coverage of providers involved in the delivery of Disability Employment Services - Employment Services Support (ESS) and Disability Management Services (DMS) as well as Job Services Australia which are the largest programs and which deliver employment assistance to the majority of Australia's unemployed citizens. These services are delivered through a network of approximately 350 organisations delivering services from 3500 sites across metropolitan, regional and remote locations.

NESA represents and advocates for the development and continuous improvement of the Australian contracted employment services industry. Our priority is to ensure that Australia has a vibrant and sustainable industry which delivers quality services to job seekers and employers and is valued by the wider community for its social and economic contribution. Of particular focus to NESA is ensuring the provision of appropriate services to assist disadvantaged job seekers overcome barriers and support improved opportunities for employment and inclusion. To achieve this NESA is focused on ensuring that it facilitates strong partnerships with stakeholders and supports its members in the development and application of business excellence and better practice.

The employment services industry has a pivotal role in assisting the Australian Government to achieve its policy objectives in workforce participation, productivity and social inclusion. Central to achieving these objectives is ensuring that job seeker clients have the skills and support necessary to effectively meet the demands of a contemporary workforce and achieve sustained participation.

Participation in employment is a key element to achieving social inclusion. People with a disability face additional barriers to social and economic inclusion and experience lower rates of labour force participation and higher incidence of unemployment than other Australians. The barriers to gaining and maintaining employment faced by people with a disability are diverse and are not restricted to those related to their disability/ies. Participation and employment rates vary by disability type with those experiencing mental health ill achieving significantly lower rates of employment. A study by Waghorn and Harris (2008) found that "healthy Australians" had an employment participation at 78% compared those with mental ill health of 46% and depending on the disorder sub groups had participation rates as low as 16%.

However, one of the greatest barriers to employment continues to be a lack of understanding of disability and the resulting stigmatization that can occur within the business and wider community. People with a disability are engaged across the suite of Australian employment services. The key characteristics of those receiving assistance from Disability Employment Services – ESS is the permanence of their disability and they are assessed as likely to need ongoing support in the workplace.

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## **Introduction**

NESA welcomes the opportunity to provide a response in relation to the Inquiry into the administration and purchasing of Disability Employment Services in Australia. NESA has consulted widely with the industry in relation to the proposed purchasing arrangements for Disability Employment Services – Employment Support Services. As we have indicated in our response to Government consultations and on other public records is that there is a diverse range of views in relation to the proposed arrangements for Disability Employment Services.

In relation to Disability Employment Services – Disability Management Services there is a general view that as this has been subject to recent competitive tender processes that it is appropriate that this program within Disability Employment Services is not subject to further competitive processes at this time. There is a further view that it is appropriate to address issues of poor performance through a business reallocation process at the mid point of the contract. Many also welcome that principles of competitive neutrality are to be applied and the public provider will be subject to the same conditions as other contracted providers in business reallocation.

In relation to the decision to extend all Australian employment services contracts including Disability Employment Services in remote areas to enable the review of arrangements moving forward has been welcomed. It is hoped that this review will result in a more effective employment and participation services model tailored to the unique needs and circumstances of remote communities.

In relation to Disability Employment Services – Employment Support Services a consensus position in relation to purchasing is not evident. Many consider that an appropriate balance has been struck between stability of service and reward for high performance in the proposed arrangements. Others consider the benchmark for high performance at four or five Star Rating is too high with some expressing the view it should not be subject to any form of competition and all providers should be awarded an extension. There are also many who consider that given the program has not been subject to competitive arrangements 100% of the market should be put to tender to ensure the strongest network of providers are in place for service users. This diversity of views is evident across providers including those who are existing providers of ESS as well as those with expertise to offer and a desire to enter the market. Our more recent consultation confirms that this diversity of view persists.

### **(a) the impact of tendering more than 80 per cent of the current DES on the clients with disability and employers they support under the current contracts;**

Since 1998 the primary arrangements for delivery of Australian employment services has been through contracted arrangements. Purchasing of these services from community, private and public organisations has predominately being conducted through competitive tender arrangements. There have been numerous tenders involving most Australian Government employment services programs over the past decade. There have been competitive tenders that have involved full open market competition as well as tenders where partial business share is subject to open market competition and the rest is awarded to existing providers based on performance assessment. In addition some employment service programs have been subject to business reallocation through the life of the contract to ensure that job seekers and employers have access to the highest performing providers. Through these experiences there is widespread acknowledgement from providers that purchasing, whether larger or smaller in scale, impacts on clients and employers.

NESA recognises that assessment of the potential impact of purchasing processes is complex particularly in relation to those impacts affect on the primary service consumers, the clients and employers they support. Connection to quality services and personnel are clearly important to clients with a disability and employers

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receiving support. However, the industry generally recognises the need to balance stability with reference to the quality and performance in the delivery of those services.

Our experiences indicate that in order to ensure that negative impacts on job seeker and employer clients is minimised a priority needs to be placed on ensuring that all purchasing processes are accompanied by well designed transition arrangements. Transition arrangements should support better practice in managing and minimising impact of client transition from exiting to new providers, where required. We believe transition arrangement may appropriately include:

- Appropriate communication with clients to support their understanding of change to their service arrangements
- Resources to support client centred collaboration between new and exiting providers
- Resources to support the appropriate transfer of client information to minimise disruption to agreed services and commitments in place at the time of purchasing
- Sufficient notice of transition arrangements and period of time to implement transition effectively

The industry considers that the development of high quality tenders is resource intensive and can interfere with frontline service delivery to clients. The industry acknowledges that organisations individual preparation for tenders can assist in minimising such impacts. However it is critical that tender requirements are designed in a manner which enables an efficient response and minimises the extent to which resources need to be directed away from service delivery in order to compete for business. We consider good tender design includes:

- Consultation with industry about the design of the tender
- Exposure Draft of the Request for Tender
- Clear response criterion
- Clear evaluation criterion including sub criterion applied
- Adequate response times to prepare response
- Access to appropriate data to support responses
- Timely and comprehensive information sessions to support potential tenders
- Adequate tender support mechanisms such as tender information services which provide timely and full response to questions

#### **(b) the potential impact of losing experienced staff;**

The loss of experienced, skilled and high performing employment service organisations weakens the sector and its ability to meet the needs of job seekers and employers. The experience of Australian employment services is that there is increased staff loss from the industry as a result of purchasing processes. This loss of staff occurs for many reasons including the reduced security of employment. Staff turnover is an ongoing issue for employment services throughout contract periods with a high degree of staff mobility within the sector and staff loss due to competition for skills with the community services and health sector in particular. Ensuring that contract arrangements support providers' capacity to support the continued retention of appropriately skilled staff in the face of increasing wage pressures is critical.

We note that in relation to purchasing a high degree of staff from exiting organisations transfer to other providers within the industry. Learning from past purchasing we note that the retention of skilled staff can be maximised through targeted support and good practice in the transition period. As with the transition of clients, opportunities to maintain skilled personnel should be facilitated in transition arrangements. We note that good practices in the transition of personnel between exiting and new providers have resulted in good skill retention for the industry and have contributed to supporting existing client relationships.

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**(c) whether competitive tendering of more than 80 per cent of the market delivers the best value for money and is the most effective way in which to meet the stated objectives of:**

- (i) testing the market,**
- (ii) allowing new 'players' into the market, and**
- (iii) removing poor performers from the market;**

The industry notes many issues of concern with competitive tendering as the means of purchasing employment services such as the focus on the written document. However, at this time there is little evidence of another suitable mechanism which could avoid the cited limitations and impacts of tenders without the potential for other negative and potentially more damaging consequences.

We note for example that business reallocation processes used to remove poor providers during a contract period can result in profound impact on the organisations wider sustainability. Organisations incur liabilities for commitments such as leases which are undertaken for the entire employment services contract period. A loss of business through the reallocation process can result in the loss of other community and business services as a result of accrued liabilities. While such mechanisms can remove poor performers they are not optimum to bring in new entrants to the service network.

Licensing models which are used in some international markets are designed to maximise competition. While suited to areas with high population density such models can produce unsustainable market arrangements which are more likely to affect small providers in the first instance. It is clear from experiences that the nature of Australia's population size and distribution requires business share to be managed in order to avoid disruption created by unviable business arrangements in local markets. Instability of providers through the contract period impacts on the stability of services to clients and the efficiency of service models.

We also note from experiences in Contracted Case Management services which was in operation during Working Nation that an accreditation model could be used to manage and assure the quality and capacity of potential entrants to the market. However, the accreditation model could not be used to address poor performance in relation to outcome achievement or to allocate business. As such providers were able to seek accreditation to tender however competitive tenders were used to award business to existing and new providers at the conclusion of each contract period.

**(d) whether the DES Performance Framework provides the best means of assessing a provider's ability to deliver services which meet the stated objectives of the Disability Services Act 1986 such as enabling services that are flexible and responsive to the needs and aspirations of people with disabilities, and encourage innovation in the provision of such services;**

There are differing views on this issue across the Employment Support Services (ESS) provider network. We note that there are well documented concerns regarding the performance framework and particularly the transparency of methodology relating to the Star Rating systems used in the performance framework across Australian employment services. This system was subject to intensive review and consultation with the reform of employment services in 2009 and is continuing.

We note that all Disability Employment Services providers are subject to the Disability Employment Services Performance framework which includes assessment of quality with measures supported by provider organisations annual audit of compliance with the Disability Service Standards (DSS) conducted by independent Certification Bodies accredited by the Joint Accreditation Services for Australia and New Zealand (JASANZ).

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There are some providers who consider that in order to receive a high performance rating through the performance system they need to compromise their observance of the DSS, while others disagree strongly. Many providers of ESS and DMS who are required to be certified against the DSS have provided feedback that notwithstanding the continuous improvements required to the performance system that it is possible to perform highly in both quality of client centred services and achievement of outcomes in their experience. They note that if they were not able to comply with DSS and pass annual independent audits they would therefore not be allowed to continue to deliver services.

There is a widespread view that contractual conditions and service requirements have the greatest impact on the capacity of providers to be flexible, responsive and innovative in service delivery. It is particularly those requirements which are highly prescriptive and administratively burdensome that can inhibit truly client centred approaches. We note that these conditions and requirements involve issues related to program design and accountability mechanisms as well as reflecting legislative requirements. Resources provided through contractual arrangements are also a critical factor to support high calibre individualised service delivery.

**(e) the congruency of 3 year contracting periods with long-term relationship based nature of Disability Employment Services – Employment Support Services program, and the impact of moving to 5 year contract periods as recommended in the 2009 Education, Employment and Workplace Relations References Committee report, DEWR tender process to award employment services contract; and**

The industry has long advocated that a three year contract period offers an insufficient duration to achieve optimum performance. A significant period of a three year contract period is consumed with initial purchasing, implementation of transition requirements and preparing for the next purchasing process. The industry has advocated that longer contract periods of approximately five years would be more conducive to development of better evidence based practice and performance. We note the recommendation from the Senate Inquiry into the purchasing arrangements for Job Service Australia as follows:

*4.69 A three year contract, even with the provision to extend was seen as too short by some in the industry. The new model will take at least six months to bed down and in the last year of the contract resources must again be turned towards ensuring the service continues. Such discontinuity is disruptive and costly, and a distraction from the main task of the provider. Consideration should be given to extending the minimum period of the contract to five years.*

**(f) the timing of the tender process given the role of DES providers in implementing the Government's changes to the disability support pension.**

Australian employment services operate in a highly dynamic environment which involves changes to requirements throughout the contract period as social policy and program changes are implemented. The capacity of providers to respond to such circumstances is critical to their success and compliance with contractual requirements.

We note that while the majority of Disability Support Pension recipients are provided services through Disability Employment Services (ESS and DMS), these clients are involved in the full suite of Australian employment service programs including Job Services Australia. Appropriate support needs to be in place to support all Australian employment services providers to respond to changes in the policy environment and undertake their responsibilities appropriately. Ensuring that citizens affected by changes to the Disability Support Pension have access to the most appropriate services and best available providers is essential.