

## ATTACHMENT TO CDDA APPLICATION FORM

### Scheme for Compensation for Detriment caused by Defective Administration (CDDA SCHEME)

#### Section 2 - Question 2 - Explain how the Agency's administration was Defective

##### **Demonstrated defective administration by the Department of Environment Water Heritage and the Arts from June 2008 to April 2010**

The administrative and system failings of DEWHA in its design, management and implementation of the Green Loans program have been exposed and detailed in three reports into the program released by the Government, through the Minister for Climate Change and Energy Efficiency and Water the Hon. Penny Wong, on 8 July 2010. Those reports are as follows:

- Independent Enquiry into Green Loans Program dated June 2010 by Ms Patricia Faulkner AO ("the Faulkner Report")
- Review of Green Loans Program dated March 2010 by Resolution Consulting ("the Resolution Report")
- Internal Audit Review of Procurement Practices in the Green Loans Program by Protiviti dated December 2009 ("the Protiviti Report")

The above reports together highlighted the following key aspects of the defective administration by the Departments of the program:

#### **1. *Absence of effective program leadership as well as unacceptably high staff turnover***

Both the Faulkner Report and the Resolution Report highlighted the unusually high turnover of branch and departmental staff. The Faulkner Report noted that at the leadership level of the Green Loans program 11 people held the position of Branch Head in 22 months from June 2008 to March 2010. In addition, leadership of the program was absent within the department:-

*"Executives ... within DEWHA and corporate staff and the Program staff were broadly aware of problems with the administration of the Program and several attempts were made to pursue these concerns. ...However, there appears to have been inadequate and/or ineffective efforts to follow through when matters were raised. In particular we saw no evidence of attempts to escalate concerns about the Program to the highest levels within DEWHA."*

The Resolution Report found (at page 17) that management of the Green Loans program was complicated by a constant turnover of people with the section of the Department that administered the program as well as at the SES level. The lack of consistent staffing increased the risk of poor management and reduced the possibility of effective oversight of the program. The Resolution Report also found that poor record-keeping compounded the problem of staff turnover as there is no base-line information for them when moving into the program.

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### **2. Absence of a program centred governance model**

The Faulkner report highlighted a lack of effective co-ordination and interface with departmental corporate functions throughout the Green Loans program. Central departmental corporate capabilities in the areas of legal, finance, IT and program management were not included or integrated into the Green Loans program and this created significant weaknesses and deficiencies.

Internal audit was not involved in real time auditing of the program design and the chief financial officer branch and legal services were not engaged in the design or management of the program. Faulkner reported a complete absence of any integration between the Green Loans program and these other crucial departmental areas, so that at no time was a proper platform provided for them to engage actively in the Green loans program at all appropriate stages.

In addition the Faulkner Report found that that key components of program governance were not prepared, endorsed and circulated to key executives in a complete and timely manner. These included project plans, communication strategies, risk identification and management plans for the program were not created and/or not updated and/or not circulated. This deficiency amounted to poor planning overall for the Program.

In addition the Faulkner Report found that a Senior Steering Committee for the program was only set up November 2008 and once set up the Committee did not meet regularly, kept no minutes whatsoever of meetings, experienced many staffing changes within the Committee and no had forward schedule of meetings.

### **3. Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program**

The findings in the Faulkner Report indicated that the Green Loans program was effectively the "poor cousin" of the Department throughout the relevant period. At page 38 the report found that the Home Insulation program, which was running simultaneously with the Green Loans program along with other programs, received priority attention of DEWHA staff at the time. In addition it was found that the Green Loans program had unrealistic time pressures and little support from the Branch Head of DEWHA.

The Resolution Report found:-

*"There appears to be a culture of delivering the program no matter what, which has lent itself to getting around financial controls and systems."*

Branch Heads of the program reported to the Faulkner reviewer that they were "too busy" to focus on the design an operation of the Green Loans program and devoted only "minimal" time to it.

### **4. Lack of adequate specialist skills for the Green Loans team in the Department.**

The Faulkner Report found (at page 37) that the skill set of staff members of the Green Loans team was limited to policy experience only. In particular, the Green Loans team



## Section 2 - Question 2 Continued

*"did not bring suitable experience to design and manage the program and design and set up arrangements"*

and further:-

*"...various Branch Heads who occupied position and the Director of Program as well as members of the team, did not have prior experience or skills in implementing large programs including project management, financial management and procurement skills."*

This situation meant that there was inadequate skills and experience amongst relevant staff in project management, risk assessment, stakeholder liaison etc that led to defective design and implementation of the Green Loans program.

In addition the Faulkner Report found (at page 38) that poor performance by staff of DEWHA, including that of directors and above, was not adequately addressed by the Department.

In addition, the Resolution Report found (at page 18) that *"It is not clear staff had proper training in program management and delivery."*

### **5. Poor quality of program design and management.**

Deficient management issues with the Green Loans program were highlighted in all the reports released by the Government on 9 July 2010.

Section 7.4 of the Faulkner Report outlined the poor quality of program design and management. For instance,

*"At the design phase, the program did not consider the nature and type of financial systems and reporting required, processes to manage the pipeline of assessments or processes to allocate work to assessors (particularly as the program did not originally cap the number of assessors)."*

In addition to the deficiencies relating to financial management throughout the duration of Program the Faulkner Report found serious defects in risk assessment and risk management, in that,

*"There is no evidence who had carriage of the risk assessment within the Program and who was actively responding and managing the risks and updating the documentation as a part of routine governance."*

A risk assessment report was conducted and completed by a legal firm for the Department however Ms Faulkner found *"there is no evidence that the report and its content was reviewed or monitored by the Steering Committee of Program area."*

The Resolution Report also identified risk management as a major problem with the Green Loans program. At page 17 of the Report, the Resolution Consulting Group found that:-

## Section 2 - Question 2 Continued

*"It is clear that Departmental officers had no understanding of risk management and the process of identifying and applying risk treatments was non-existent..... There are no risk owners, so no one is responsible and the risk was not managed."*

It is clear from Recommendation 1 of the Resolution Report that the Department failed to undertake basic planning steps before the commencement of the Green Loans program such as:-

- program development (ie defining the program parameters)
- program design
- program delivery
- risk assessment process (including any worst case scenarios).

The Resolution Report found that overall management controls were insufficient for a program that was unnecessarily complex and over-engineered and that there were repeated system management failures. At page 18, the Resolution Consulting Group sets out a damning list of management system failures in the Green Loans program, including:-

- The project plan was inadequate
- There was no business plan or implementation plan
- There was no proper financial controls and reporting tools
- There was a constant turn-over of staff and management which complicated knowledge bases and management control
- Staff "delivered the program" rather than managed it in accordance with proper process
- There appears to be a culture of "getting around the controls" which led to inadequate oversight of the program

Serious deficiencies in the payment system to Assessors were also highlighted by the Resolution Report as being a lack of management of the payments, no development of an appropriate payments system, the making and recording of payments and ensuring they were reconciled.

Recommendation 3 of the Resolution Report highlights the inadequate financial management training for the program managers. Later at page 16 of the Report it is recognised that appropriate financial controls were not built into the Green Loans program.

The Protiviti Report reported (at page 13) that under the Green Loans program established departmental procedural and policy guidelines were not adhered to throughout the implementation of the program, due in part by a lack of understanding or knowledge by staff of these documents.

### **6. Failure to provide adequate information technology systems required for the proper implementation and management of the program**

The Resolution Report highlights the failure by the Department to deliver the promised online comprehensive portal for assessors to book assessments, upload reports, and send invoices for payment, known under the program as the "eGateway". The eGateway was intended by the Department (and promoted to the HSAs) to provide an interface between assessors and



## Section 2 - Question 2 Continued

the Department. At page 14 the Resolution Consulting Group reports that the eGateway designed for the Green Loans program was not ever fully implemented.

*"It is not clear what happened to the eGateway but the Ministerial briefs identify a considerable number of delays and it is at least six months late in delivery. It does not appear to be fully functional. The key failure in relation to the eGateway was that the project was not delivered on time. It is not clear what the cause of the delays were but it can be assumed given the other systemic failures that there is a strong possibility that the [eGateway] project scope was not correctly defined and project management was inadequate."*

(Resolution Report page 14)

The Faulkner Report reported that in the absence of the eGateway system being delivered and functional, HSAs had no alternative but to rely upon the Green Loans call-centre to make bookings and arrange payments.

### **7. *Improper favouring by the Department of one specific assessment provider, Fieldforce, over the interests of other Assessor providers.***

Section 6.4 of the Faulkner Report details the significant problems for normal HSAs such as the Applicant that arose from the Department's dealings with Fieldforce in the Green Loans program.

Faulkner reports (at page 32) that in December 2009 DEWHA signed an MOU with Fieldforce which allowed Fieldforce to send through its bulk assessment bookings electronically on a weekly basis without having to access the DEWHA contact service centre. The Faulkner Report found that:-

*"During the Christmas and New Year holiday period in late 2009 and early 2010, DEWHA temporarily scaled down the service of its call centre and Assessors were not permitted to make bookings. However, during the same period, Fieldforce were able to make new assessment bookings through its MOU arrangement with DEWHA....."*

*"Other assessors and organisations were not offered the same booking arrangements and had to spend long periods of time in telephone queues waiting to make assessment bookings. The call-centre waiting time during January 2010 was on average 16 minutes, with the longest waiting time being 1 hour 35 minutes and in February 2010, the call centre time moved to an average of 1 hour. Fieldforce was able to continue making assessment bookings as they avoided the need to contact DEWHA's booking centre. In addition other Assessors were not able to make new bookings for assessments over the Christmas and New year break."*

(Faulkner Report page 32)

Faulkner disapproved of the serious lack of transparency which was inherent in this arrangement between the Department and Fieldforce:

*"DEHWA did not inform other Assessors or assessor organizations of the arrangement with Fieldforce."*

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### **8. Inadequate communication or lack of quality in communication within the Department**

The defective communication systems utilised in the Green Loans program were highlighted by both the Faulkner Report and the Resolution Report. For instance, at page 24 of the Resolution Report it was stated that :

*"Communication of government policy to stakeholder and the public is a major part of the design [of a program]. In the Green Loans program, there are public statements and within contracts that the program is limited to the available funds, however Green Loans assessors were still being accredited in January 2010 and the program funds are almost fully committed, there may be considerable complaints about expectations that are not fulfilled."*

In addition, the system requirements for managing the program were not in place. New IT systems needed to be designed and a timeframe for delivery established and met. It was apparent to both the Faulkner Report and the Resolution Report that the system architecture required for the Green Loans program had not been carefully considered by the department before the program was commenced. For example the Resolution Report found in March 2010 that:-

*"the Green Loans eGateway is likely to fully functional just as the program is completed."*

Section 7.6 of the Faulkner Report outlines in detail the poor quality and/or absence of effective communication within the Green Loans team, as well as between the team and DEWHA management.

General record keeping (both hard-copy and electronic) was highlighted as non-existent or manifestly deficient in the Green Loans team in all three reports.

Clearly then the three reports referred to above have outlined conduct and systemic deficiencies on the part of DEWHA and its officers in the implementation of the Green Loans program which display all the elements of defective administration and/or maladministration. In particular the failings outlined in the reports indicate the following elements of maladministration:-

- neglect,
- dereliction of duty,
- improperly discriminatory,
- incompetence,
- unreasonableness, and
- oppressiveness.

The Faulkner Report, the Resolution Report and Protiviti Report are all in the possession of the Commonwealth government and now on the public record (as of 8 July 2010). It would seem in these circumstances the damning findings of these three Reports cannot now be denied, diminished or otherwise avoided by the Government and form a solid and irrefutable basis for supporting this claim for compensation under the CDDA Scheme.



## Section 2 - Question 2 Continued

### **Additional elements of defective administration specifically applicable to Home Sustainability Assessors (HSAs) signed up with GLACO Pty Ltd**

#### **9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors***

##### Misrepresentations about advertising of the program by the Department

Once the Green Loans Program got up and running and HSAs had all made our investments in training and accreditation under the program, as well as business set up costs, on or around 16 September 2009 DEWHA without explanation or consultation went back on representations the Department had made to HSAs throughout the promotion and training stages that it would be undertaking (at the cost of the Commonwealth) a national advertising and mass marketing campaign for the Green Loans program. The obligation on the part of DEWHA to conduct the advertising and promotion of the Green Loans program was also set out in the individual contracts HSAs have with the Department.

The representations made by DEWHA about the nature and extent of the advertising and promotion of the program that the government would undertake served to induce most HSAs into making the not insignificant up-front financial investment required by them to permit them to participate and to become an accredited Assessor contracted under the program.

##### Misrepresentations by the Department about the maximum number of Assessors to be accredited

The Faulkner Report notes the manifest inconsistency between the representations that were made by the Department to prospective Assessors as well as the responsible Minister about the number of Assessors that were to be accredited under the program and the actual amount that the Department permitted to participate Australia wide.

In Section 6.2 the Faulkner Report notes that in December 2008 DEHWA reported to Minister Garrett that only 2000 HSA Assessors were envisaged under the program. This situation was never updated as the numbers exploded beyond 4,000. The Resolution Report (at page 12) notes that:

*"The department in the project plan should have identified a optimum number of assessors and limited accreditation to that number."*

Both the Faulkner Report and the Resolution Report highlight the inappropriate conflict of interest created by the Department in permitting the Assessor representative body, ABSA, to simultaneously supply the training and accreditation for assessors. For instance at page 12 the Resolution Report states:

*"ABSA had a conflict of interest in accrediting assessors. Assessors should not have had to join ABSA as a part of the program. The accrediting process allowed ABSA to profit from the program and provides a risk to government revenue."*

(Resolution Report page 12)

Section 2 - Question 2 Continued

**10. Lack of reasonable and prudent due diligence by DEWHA on the record and background of directors/owners of HSA organizations such as GLACO Pty Ltd**

DEWHA engaged GLACO Pty Ltd (GLACO) as a HSA organisation under the Green Loans program. GLACO is owned and operated by Mr Trevor McTaggart. The background and record of Mr McTaggart in using government demand driven programs to act inappropriately and to make improper profits was subsequently discovered by the HSAs that signed up with GLACO only after the collapse of GLACO in March 2010 after taking the HAS money for work done in February 2010. The HSAs were forced to sign up with GLACO for the provision of marketing and administration services for the Green Loans program once the Government decided in 2009 not to roll out the nationwide marketing campaign it had promised to do.

Mr McTaggart's record is set out in the Hansard extracts cited in the Submission to the Senate Inquiry into the Green Loans Program lodged by the GLACO Assessors Group (dated 12 May 2010, copy supplied to the office of Minister Wong). In those extracts Mr McTaggart's conduct in previous government programs called Ear Care and Better Care led members of Commonwealth Parliament in 1997 to label him as a "*conman*" and a "*low life*".

The willingness of DEWHA to permit Mr McTaggart and his company to participate in the Green Loans program as a HSA organisation indicates a complete failure by responsible DEWHA officers to undertake basic and prudent due diligence on the character and business background on the directors of corporate entities they were contracting with, thereby putting at unreasonable risk the efficacy and integrity of the program.



### **Section 2 - Question 3 - Explanation of what Detriment has been suffered by Applicant**

The detriment suffered by the Applicant includes the following:

1. Ongoing Financial loss for moneys outstanding (plus interest) in the amount listed under item 1 in the table set out in question 5 of the CDDA form being the amount continuing to not be paid to the Applicant by the Department for work done during February 2010 under the Green Loans program, and being moneys wrongly paid by the Department to GLACO Pty Ltd in March 2010. (Copies of reports/receipts for the work carried out have already been supplied to DEWHA and DCCEE on 14 April 2010).
2. Financial loss from lost income during the period from July 2009 to April 2010 equivalent to the amount of \$16,000.00 arising from the impediments and obstacles placed in the way of the Applicant undertaking a smooth and sustainable level of assessment work under the Green Loans program as a result of the defective design and management of the program from the commencement in 2008 to April 2010.
3. Financial loss from lost opportunity and associated losses (such as out of pocket telephone and email expenses) in the amount of \$5,000.00 (averaged) suffered by the Applicant as a result of the failure to deliver the promised eGateway and the collapse of the Green Loans call-centre in January and February 2010.
4. Interest on financial loss set out in numbered paragraph 1 above.

## **Section 2 - Question 6 - Explanation of how the Defective Administration directly caused the Detriment suffered by Applicant**

It is the Applicant's position that there are 8 key impacts arising from the conduct of DEWHA and/or DCCEE amounting to defective administration that were direct causes of the financial detriment suffered by the Applicant. Those 8 impacts are set as follows, in chronological order:-

### **1. Lack of Due Diligence caused loss to Applicant**

The complete failure by responsible DEWHA officers to undertake basic and prudent due diligence on the character and business background on the directors/owners of corporate entities they were contracting with under the Green Loans Program put at unreasonable risk the efficacy and integrity of the program as well as the moneys invested by HSAs such as the Applicant in setting up the business and covering the costs associated with being permitted to participate in the program

As far as the Applicant is concerned, in allowing Trevor McTaggart to be involved at a ownership and managerial level in a HSA company like GLACO Pty Ltd with which DEWHA entered into a contract which required his company to recruit individual HSA's to deliver the Green Loans services on behalf of the Government and made his company the recipient of moneys the Commonwealth owed to the individual HSA's made it more likely than not that GLACO Pty Ltd would abscond with the Applicant's money and undermine the business viability of the applicants Home Assessment business.

The failure to conduct a reasonable due diligence amounts to serious maladministration and/or defective administration on the part of DEWHA and its Departmental officers, in particular:-

- Failure to appreciate impact on the public and on individual participants in the Green Loans program such as the Applicant;
- Breach of trust owed to HSA's such as the Applicant that the Department knew were contracted to GLACO and members of the public that utilised GLACO's services;
- Failure to properly investigate the risks to public moneys and the program integrity that allowing GLACO to participate in the Green Loans Program at the level that it was permitted to, which undermined the viability and reputation of the Applicants Home Assessment business;
- Negligence and the absence of proper care and attention in the management and implementation of the Green Loans program.

The impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

2. *Absence of a program centred governance model*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
8. *Inadequate communication or lack of quality in communication within the Department*
10. *Lack of reasonable and prudent due diligence by DEWHA on the record and background of directors/owners of HSA organizations such as GLACO Pty Ltd*



## Section 2 - Question 6 Continued

### **2. Cancellation of national marketing campaign for the program caused loss to the Applicant**

Once the Green Loans Program got up and running and HSAs such as the Applicant had all made their investments in setting up under the program, DEWHA without explanation or consultation decided not to do the mass marketing campaign that it had promised in the promotional sessions attended by the Applicant and in the Applicant's contract with the Commonwealth. This decision was a critical factor in forcing the Applicant into the arms of call-centre businesses like GLACO Pty Ltd. As a result of the decision by the Government/Department to renege on the advertising plans, telemarketing came to dominate this program as the most cost effective option for Assessors who wanted to generate enough leads economically to work full-time, actually doing assessments rather than marketing. This led to the loss of the Applicant's money by GLACO absconding. But for the cancellation of the promised marketing campaign the applicant would have not had any need for the call-centre services of GLACO and therefore would not have signed up with GLACO.

The impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
5. *Poor quality of program design and management.*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors*

### **3. Failure to deliver the promised eGateway system caused loss to the Applicant**

The failure to deliver the eGateway system imposed an untenable and unworkable burden on the Applicant's ability to function as a business under the Green Loans program in the booking of work and payment for work done. The "stop-gap" booking, number allocation and reporting system (both electronic and manually operated through the Call-Centre) which was provided by DEWHA throughout the relevant period was manifestly deficient in capacity and design to undertake the work actively encouraged, promoted and represented by the Commonwealth under the program.

If the promised online integrated booking and payment system had been installed as promised, it would have avoided the loss of monies that came about when GLACO absconded with the Applicant's February payments as well as the income forgone by the Applicant whilst spending endless hours attempting to make bookings and chase up payments for work already completed.

The promised system kept getting deferred until it was ultimately abandoned. What the HSAs like the Applicant ended up with was just a DEWHA Green Loans call-centre and a small-scale online "read only" booking system. The system was not interactive, was inefficient and unreliable. The Green Loans call-centre and booking portal was closed down without notice over Christmas 2009 and when it re-opened on 7 January 2010 it just did not cope. The entire booking and administration system of the program for assessors such as the Applicant collapsed by February 2010.

## Section 2 - Question 6 Continued

The whole situation with the eGateway points to neglect and incompetence on the part of responsible DEWHA officers covering poor planning, resource allocation as well as misrepresentation as to capacity on the part of the Commonwealth that induced individuals such as the Applicant to enrol, train and expend moneys to become accredited under the Program.

This impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

1. *Absence of effective program leadership as well as unacceptably high staff turnover*
2. *Absence of a program centred governance model*
3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
6. *Failure to provide adequate information technology systems required for the proper implementation and management of the program*
7. *Improper favouring by the Department of one specific assessment provider, Fieldforce, over the interests of other Assessor providers.*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors*

#### **4. Secret preferential arrangement with competitor HSA organisation, Fieldforce, caused loss to the Applicant**

The secret preferential and separate booking and AN number allocation system supplied by DEWHA to FieldForce as a HSA under the Green Loans program was improperly discriminatory as between HSA's. By being placed in a position by DEWHA of having their own processing stream and fast-tracking system direct to the Green Loans Team for the management of booking number allocation and payments meant that at times of capacity constraints in the system Fieldforce had an unfair advantage over the Applicant and opportunity to access the Call Centre services and to take up the lions share of the limited supply of booking numbers. Whilst the Applicant struggled under the unworkable Green Loans portal system, trying to make bookings and get properly paid, the Department secretly provided a handy direct booking and payment system to Fieldforce. This meant that Fieldforce was able to suck up all the booking numbers, while the applicant could not even get a call through to the Green Loans Booking centre. Unbeknownst to the applicant at the time, the Applicant was placed behind the eight ball from the beginning.

This built discrimination as between HSAs into the very system itself and resulted in financial detriment to the Applicant who acted in good faith to become trained and accredited under the Green Loans program on the belief that the applicant would have as fair and equal an opportunity to prosper through their participation as a HSA under the program as any other person.

The impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-



## Section 2 - Question 6 Continued

1. *Absence of effective program leadership as well as unacceptably high staff turnover*
3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
6. *Failure to provide adequate information technology systems required for the proper implementation and management of the program*
7. *Improper favouring by the Department of one specific assessment provider, Fieldforce, over the interests of other Assessor providers.*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors*

### **5. Failure to monitor, manage and cap Assessor numbers caused loss to the Applicant**

The three reports released by the Government on 8 July 2010 reviewing the Green Loans program (as set out in Section 2 Question 2 of this application form) highlighted the failure of the Department to monitor and manage the number of Assessors accredited under the Green Loans system, and the permitting of an inherent conflict of interest in the role of ABSA under the program, that led to a blow-out in the total number of Assessors trained and accredited under the program, way above the maximum number of 2000 that the Applicant (and the Minister) had been told at the commencement of the program.

The explosion in Assessor numbers threatened and overwhelmed the moneys allocated to the program which resulted in the severe truncation of it in February 2010 and its now imminent cancellation, 2 years ahead of the projected time. In addition the uncontrolled entry of new Assessors into the program necessarily rendered the business of the Applicant less viable due to undue and excessive activity in the program. This failure also directly resulted in the sudden and draconian changes to the program on 19 February 2010 which completely destroyed the Applicant's business (see also point number 6 below).

The impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

1. *Absence of effective program leadership as well as unacceptably high staff turnover*
2. *Absence of a program centred governance model*
3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
6. *Failure to provide adequate information technology systems required for the proper implementation and management of the program*
7. *Improper favouring by the Department of one specific assessment provider, Fieldforce, over the interests of other Assessor providers.*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors*

## Section 2 - Question 6 Continued

### **6. Sudden significant change in the program without consultation caused financial loss to the Applicant plus ongoing loss of income from that date**

On 19 February 2010 the Government made abrupt and sudden changes to the Green Loans program, to solve the political problem of too many assessors and too much demand. The sudden overhaul of the Green Loans program on 19 February 2010 in response to the problems experienced with the execution of the program without notice or consideration of the impact such a drastic change in the criteria for the program would have on assessors such as the Applicant was manifestly unreasonable and the overnight limit introduced on the work levels of assessors such as the Applicant to 5 per week was oppressive.

The new changes capped jobs permitted to be booked by each Assessor such as the Applicant at a maximum of 5 per week. This effectively pulled the rug out from the applicant's business model and also destroyed GLACO's viability.

This impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

2. *Absence of a program centred governance model*
3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
6. *Failure to provide adequate information technology systems required for the proper implementation and management of the program*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors*

### **7. The giving of negligent advice to email in job bookings during January and February 2010 when the Call-centre system collapsed caused loss to the Applicant**

During the weeks when the booking system collapsed for ordinary Assessors, the Department gave the applicant either negligent or deliberately false advice to just email in the applicant's bookings as they got them, do the Assessments and then the Department would retrospectively allocate booking numbers to the Applicant's jobs so the applicant could be paid. The lack of skills and experience, absence of risk management, poor communication, absence of program leadership led officers of DEHWA and/or DCCEE (as the case may be at the relevant time) to provide such advice, as a kind of knee-jerk response in a crisis situation.

The Applicant acted in good faith on this advice, because the applicant wanted to keep giving the public service under the program even if the Department couldn't get its act together. But the Department subsequently reneged on this advice or otherwise did not honour its conduct, which has caused untold financial loss to the Applicant.



## Section 2 - Question 6 Continued

This impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

1. *Absence of effective program leadership as well as unacceptably high staff turnover*
2. *Absence of a program centred governance model*
3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
6. *Failure to provide adequate information technology systems required for the proper implementation and management of the program*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors*

**8. The failure to act on warnings given by the Applicant and other Assessors about the imminent collapse of GLACO Pty Ltd to prevent payment in March 2010 to GLACO Pty Ltd caused loss to the Applicant.**

The lack of skills and experience, absence of risk management, poor communication, absence of program leadership led officers of DEHWA and/or DCCEE (as the case may be at the relevant time) to wilfully and recklessly ignore or otherwise unreasonably fail to act to heed the warnings given to them about the dangers of payment of the February invoices to GLACO in circumstances where it was known to be highly likely that the invoices provided to DEHWA by the Assessors through GLACO would not be paid or honoured by GLACO from such payments made to it by DEHWA.

Assessors such as the applicant signed up with GLACO have already established in the submission made to the Senate Inquiry in the Green Loans program (copy supplied to Minister Wong and DEHWA and DCCEE) that the Department had fair and reasonable warning (from Assessors such as the Applicant and from ABSA) as to the risks regarding the loss of the February 2010 payment due to be paid to GLACO Pty Ltd. Individual Assessors such as the Applicant made all reasonable attempts to avert what ultimately happened by GLACO absconding with their February payments, and it was solely within the control of DEHWA to prevent this outcome by withholding the payment pending the addressing of the concerns that were being expressed by the legitimate owners of the moneys. DEHWA actively denied Assessors such as the Applicant the only other alternative which would have avoided the outcome by refusing to allow the Assessors to invoice DEHWA directly for their outstanding assessment work and continued to insist that they invoice for the work for February through GLACO.

Having destroyed the businesses of the Applicant from 19 February 2010, the Department then failed to heed the warnings and alerts given to them by GLACO Assessors in late February and early March about the security of the upcoming payment to GLACO for work done by Assessors such as the Applicant in February 2010. The Applicant is aware that other GLACO Assessors had heard from a GLACO whistleblower that GLACO Pty Ltd was planning on folding soon and had passed this information onto DEHWA asking them to withhold all future payments to GLACO Pty Ltd, and to pay HSAs directly under the individual contracts Assessors like the Applicant had with the Commonwealth. The Assessors received no genuine response from the Department to the

## Section 2 - Question 6 Continued

warnings. Then on 8 March 2010, the Green Loans Program was transferred from DEWHA to the Department of Climate Change and Energy Efficiency. That same day GLACO emailed Assessors such as the Applicant that the company was moving to a new company structure. The Applicant is aware that numerous GLACO assessors immediately started phoning and emailing the Department and ABSA to alert them to the situation and demanding very clearly for the Department to hold back the February 2010 payment to GLACO and pay the Assessors such as the Applicant directly on the serious threat and likelihood that GLACO would abscond with the money. The Applicant is aware that ABSA also asked the Department to withhold payment on behalf of Assessors such as the Applicant. The Applicant is aware that an amount of around \$200,000.00 was subsequently paid by the Department to GLACO sometime in March 2010 over the top of the warnings and objections of Assessors such as the Applicant and the Applicant's money was lost.

DEWHA has already established a precedent for payment of one former GLACO Assessor, Morris Johnsen of Faymos Pty Ltd, who forwarded his February invoices directly to DEWHA during this period via email thereby by-passing the dysfunctional DEWHA call centre and booking system. This Assessor received payment for February from DEWHA. He did this for March as well and has now been fully paid for all work. Those GLACO Assessors such as the Applicant that diligently followed the instructions given to them by DEWHA, even in the face of their warnings to DEWHA about the risks associated in DEWHA paying GLACO should not be unfairly penalised for following DEWHA's directions.

As far as the Applicant is concerned this conduct on the part of DEWHA amounts to maladministration and/or defective administration as:-

- Failure to appreciate impact on the public or an individual of not acting on the warnings
- Giving undue weight to the Department's convenience or interests in the circumstances
- Breach of trust
- Failure to properly investigate
- Negligence or the absence of proper care and attention

The Applicant and other GLACO Assessors did everything the Department told them to. The Applicant did everything they could to protect all GLACO assessors money. At all times the Applicant has acted reasonably and in good faith. In response the Applicant was ignored or dismissed or simply lied to.

The impact of financial loss to the Applicant arises as a direct result of the factors of defective administration set out in Question 2 Section 2 of this application form, being:-

1. *Absence of effective program leadership as well as unacceptably high staff turnover*
2. *Absence of a program centred governance model*
3. *Lack of sufficient resourcing of the Green Loans program and the branch/team administering the program*
4. *Lack of adequate specialist skills for the Green Loans team in the Department.*
5. *Poor quality of program design and management.*
6. *Failure to provide adequate information technology systems required for the proper implementation and management of the program*
8. *Inadequate communication or lack of quality in communication within the Department*
9. *Poor communication amounting to misrepresentation on the part of the Departments towards Home Sustainability Assessors.*