

**INQUIRY INTO THE DEEWR TENDER PROCESS TO AWARD
EMPLOYMENT SERVICES CONTRACTS**

**SUBMISSION TO THE SENATE EDUCATION, EMPLOYMENT
AND WORKPLACE RELATIONS REFERENCES COMMITTEE**

FROM

**THE DEPARTMENT OF EDUCATION, EMPLOYMENT AND
WORKPLACE RELATIONS**

Table of Contents

1. INTRODUCTION.....	3
2. OVERVIEW OF THE NEW EMPLOYMENT SERVICES MODEL.....	6
2.1. Development of the new Servicing Arrangements	6
2.1.1. Initial Stakeholder Consultation	6
2.1.2. Discussion Paper – The Future of Employment Services in Australia	7
2.1.3. Exposure Draft – further consultation with industry	8
2.1.4. Request for Tender.....	9
2.2. Outline of the new Employment Services Model - Job Services Australia	9
2.2.1. Stream Services in the New Employment Services	10
2.2.2. New Enterprise Incentive Scheme (NEIS) Panel.....	11
2.2.3. Innovation Fund Panel	11
2.2.4. Employer Broker Panel.....	11
2.2.5. Harvest Labour Services.....	12
2.2.6. National Harvest Labour Information Service.....	12
2.3. Why was Job Services Australia designed this way?	12
2.4. The Employment Services model and Social Inclusion	13
2.5. The Employment Services Model and the impact of the global recession	14
2.6. The Employment Services model and the 2002 Productivity Commission Report – Independent Review of Job Network	16
3. OVERVIEW OF THE DEEWR PROCUREMENT PROCESS.....	19
3.1. The Request for Tender for Employment Services 2009-12	19
3.1.1. RFT - The process	21
3.1.2. RFT - Selection Criteria.....	21
3.2. Assessment of tenders.....	22
3.3. Early ' <i>without prejudice</i> ' advice.....	23
3.4 . Announcement of Final Outcomes	24
3.5. Probity.....	25
4. THE OUTCOMES OF THE DEEWR TENDER PROCESS.....	26
4.1. Providers - Job Services Australia	26
4.2. Local and specialist providers.....	27
4.3. Changes between current and new arrangements	28
4.4. Agency Adjustment fund.....	29
5. TRANSITION ARRANGEMENTS	30
5.1. Request for Tender Transition principles	30
5.2. Preparing for transition – Planning, governance and stakeholder consultation	31
5.3. Transition – support for providers	32
5.4. Job Seeker transition.....	33
5.4.1 Referrals of job seekers.....	34
5.4.2. Job seeker interests at the heart of transition	34
6. ATTACHMENT.....	35
Attachment A : Table of Key Dates.....	35

1. Introduction

In 2008, the Australian Government sought and listened to the views of job seekers, providers, industry representatives, employers and other stakeholders on the future direction of employment services. This feedback reported that existing arrangements were considered inflexible, complex and fragmented and required reform. The current system lacked responsiveness to job seekers, particularly those who were most disadvantaged, and there was insufficient focus on meeting the needs of employers. Stakeholders were also concerned about the suitability of the performance rating system and administrative red tape.

The new employment services system, described in the Discussion Paper *The Future of Employment Services in Australia* released in May 2008, reflected the Government's agenda for social inclusion and commitment to boosting the skills and productive capacity of the workforce, as well as responding to the feedback from the consultations that commenced in early 2008. The further consultation informed the detail of the model and the purchasing process described in the *Exposure Draft of Purchasing Arrangements for the new Employment Services 2009-12* published in August 2008.

Providers and other stakeholders were consulted and provided comment on the proposed employment services model and subsequently on the purchasing arrangements set out in the Exposure Draft before the Request for Tender was released in September 2008.

The new employment services, Job Services Australia, are funded by the Government to provide eligible job seekers with training, work experience and other interventions in order to obtain suitable employment. Employers are assisted through the tailoring of assistance to individual job seekers who receive training and develop skills needed to take up employment opportunities in the labour market.

Job Services Australia represents a major change to employment services. The new integrated employment services simplify and provide more cohesive arrangements for job seekers by reducing the number of programs from seven to one and increasing access to additional, flexible support through the Employment Pathway Fund. The new services represent a much greater focus on:

- services that are able to be tailored for all eligible job seekers
- more flexible support and more resources for the most disadvantaged job seekers including through immediate access to the appropriate level of service
- skills development and training including through improved connections with vocational education and training, including Australian Apprenticeships, and other program providers, and
- local community connections and local labour market and employer needs.

Job Services Australia Providers have a critical role in delivering assistance for job seekers which addresses vocational needs and non-vocational barriers, building linkages with employers, connecting job seekers to appropriate skills development opportunities and ensuring cooperative relationships with stakeholders.

Over the next three financial years, the Government has budgeted \$4.9 billion for the provision of employment services through Job Services Australia as part of the broader productivity and social inclusion agenda.

Given the major change and the expiration of around 95 per cent of current Job Network contracts, the Department was required to undertake a national procurement process across the market. It was essential to assess whether tenderers had the capacity and strategies to provide the new employment services suited for the locations in which they were tendering as well as relevant expertise. As Job Services Australia integrates a number of pre-existing programs, performance in any one current program, such as star ratings for Job Network services or rankings for Personal Support Programme providers, could account for only part of the assessment of past performance.

The procurement process, conducted by the Department at arms length from the Minister, was robust, undertaken in accordance with the Commonwealth Procurement Guidelines and underpinned by the principle of value for money. The independent Probity Adviser gave an unqualified sign off.

The tender has resulted in a mix of continuing and new Providers as well as diversity among specialist services. Stream Services business has been awarded to 116 tenderers involving around 140 organisations and a significant number of subcontracting arrangements. There are many community-based organisations among the main contractors and subcontractors. There will be more than 150 individual specialist services across Australia. Around 95 per cent of the organisations who will deliver Stream Services (in their own right or as part of a tendering group) are existing employment service providers.

The Department, with valued input from providers, is implementing a comprehensive plan to manage the transition to Job Services Australia. Since the announcement of the tender outcomes, the Department has been working with new, continuing and exiting organisations to support a smooth transition.

For job seekers, the paramount consideration in transition is to connect smoothly to the Provider who will assist them in the new and enhanced services. The level of job seeker disruption is expected to be lower than in comparable transitions in the past, such as at the time of introduction of the current Job Network contract in 2003.

Job seeker transition arrangements include allowing job seekers to remain with a current Provider where possible or to be offered an alternative Provider in their local area. More job seekers have the opportunity to be assisted by specialist services, and job seekers have the opportunity to choose a different Provider if they wish.

The Department has consulted extensively with industry on the transition arrangements to the new employment services. A comprehensive approach is being implemented to assist and inform job seekers and Providers in readiness for Job Services Australia and the start of Employer Brokers and Innovation Fund projects.

As a result, from 1 July 2009, job seekers, employers and communities will benefit from the new employment services system, Job Services Australia.

The submission examines:

- the development and features of the new employment services system including the extensive consultation process with industry and other stakeholders
- the purchasing arrangements to deliver the employment services model, with reference to the Commonwealth Procurement Guidelines (CPGs)
- the Request for Tender (RFT) including assessment of bids and notification to tenderers
- outcomes of the tender,
- managing the transition between the existing programs and Job Services Australia, and
- other matters covered by the Terms of Reference.

A summary of key dates is at Attachment A.

2. Overview of the new Employment Services Model

2.1. Development of the new Servicing Arrangements

In its election policy document, *An Australian Social Inclusion Agenda*, the Government had confirmed its intention to review and improve Job Network and the Disability Employment Network in consultation with stakeholders, including service providers. The aim was to introduce new, simpler, more effective, and equitable services nationally. The Government also proposed reviews of the Job Seeker Classification Instrument (JSCI) and of Job Capacity Assessments (JCA). These reviews and associated consultations underpin the design of the employment services model and purchasing arrangements that reflected the new design.

Industry representatives and other stakeholders had expressed dissatisfaction with the existing employment services system which they considered to be complex, fragmented and lacking in responsiveness to job seekers, to employers experiencing critical labour needs and the labour market generally. The Department's latest evaluation of Job Network¹ identified a number of areas where services could be improved and these were also considered in the development of the new model.

The Government sought and listened to the views of employment services providers and other interested stakeholders during three stages of consultation in 2008. The input figured significantly in the design of the new employment services model, Job Services Australia, and the associated purchasing process described in the RFT.

2.1.1. Initial Stakeholder Consultation

In January 2008, the Minister for Employment Participation, the Hon Brendan O'Connor MP, wrote to employment service providers, peak organisations, Members of Parliament and other stakeholders seeking their views on future directions for employment services.

A total of 260 Submissions were received, including from most of the major employment service providers. Peak organisations including National Employment Services Association (as the representative of employment services providers), Jobs Australia Ltd (representing not-for-profit employment services organisations), ACE National Network Inc (the peak disability employment organisation) and the Mental Health Council of Australia contributed their views. Employer groups, such as the Australian Chamber of Commerce and Industry, also made submissions.

The key messages to emerge from the initial consultation were:

- an almost unanimous view that there was a need to fundamentally streamline services and reduce the number of separate programs
- that the current Job Network approach of a time based continuum of services was inflexible and did not take into account the needs of individual job seekers (for example, a job seeker may need to wait for particular services or miss out because they were unavailable at the time due to an exemption), and should be abandoned and replaced with a focus on more case managed individually tailored services

¹ DEEWR 2007, *The Active Participation Model Evaluation Report: July 2003-June 2006*, Canberra.

- strong calls for the more intensive services and pre-vocational assistance for highly disadvantaged and marginalised job seekers
- that administration and red tape was too onerous and diverting attention away from servicing job seekers, exacerbated by the complexity of administering multiple programs
- service fees should reflect the costs of servicing, with outcome fees emphasising the achievement of sustainable employment
- that the current employment services system was seen not to be servicing employers well and changes to incentives are needed
- the need for greater links between employment services and training opportunities
- training and education are not sufficiently rewarded as outcomes in the current system. Outcome payments needed to recognise and provide incentives for training, and Job Seeker Account rules need to be simplified to make it easier to spend money on training
- that the current job seeker compliance regime is too harsh, particularly eight week non-payment periods, and
- dissatisfaction with star ratings for provider performance and calls for the abandonment of rolling tenders.

2.1.2. Discussion Paper – The Future of Employment Services in Australia

Following the 2008-09 Budget, the Minister for Employment Participation released a discussion paper on *The Future of Employment Services in Australia*.

The Discussion Paper, developed following consultation commenced in January 2008, proposed new employment services to replace the current ‘one size fits all’ approach and provide greater flexibility to tailor services to individual job seeker needs, with more emphasis on the most disadvantaged job seekers.

The design of the new employment services described in the Discussion Paper drew heavily on the views that had been expressed by stakeholders in the review of Job Network in their submissions and in discussions with the Minister.

The Discussion Paper proposed that the new employment services model replace the existing complex and fragmented framework of Job Network, Personal Support Programme (PSP), Job Placement, Employment and Training (JPET) program, Work for the Dole and Green Corps programs. Individual job seekers would be assisted in one of four streams of service, based on their assessed need, with integrated assistance through an individualised Employment Pathway Plan (EPP) to address vocational and non-vocational needs, training and skills development, and work experience, supported by a streamlined Employment Pathway Fund. The new model would also include an Innovation Fund to offer place based solutions to address barriers to employment of highly disadvantaged job seekers. Harvest Labour Services and self employment assistance were included.

Other significant reforms in the Discussion Paper included greater incentives for employment service providers to focus on employer needs and skilling job seekers to meet those needs. Access would be improved between employment services, the Productivity Places Program (PPP) and the broader training sector. The Discussion Paper also outlined the introduction of a new ‘work like’ compliance framework.

In response to criticism of the existing star ratings model, the Discussion Paper foreshadowed the establishment of an external reference group to advise on an appropriate performance system to be simpler and more transparent, as well as promoting continuous improvement and providing for valid comparisons. The performance system should place appropriate emphasis on skills development and training, employer needs and sustainable outcomes. This expert reference group was chaired by Professor Stephen Sedgwick.

To facilitate greater certainty for Providers in planning and investment, the Discussion Paper stated that business would be reallocated once during the life of the contract, unless there are exceptional circumstances. A new approach to contract management was foreshadowed to strike a balance between proper expenditure of taxpayer funds and the need to ensure that providers are not unnecessarily burdened by administrative requirements.

Industry and key stakeholder views were sought on the Discussion Paper and its proposed future framework for employment services through an open public submission process supported by information sessions around Australia. The Discussion Paper also sought comment on how best to manage the transition from Job Network and other employment services programs to Job Services Australia.

Over 190 submissions were received in response to the Discussion Paper. This consultation resulted in a number of refinements to the model, including:

- the performance of providers for highly disadvantaged job seekers to have regard to social outcomes, as well as employment outcomes
- greater recognition of provider efforts in preparing more disadvantaged job seekers to find themselves a job
- the introduction of a national panel of Employer Brokers to link with providers, training providers and other stakeholders to meet the needs of employers
- broadening the eligibility for the Innovation Fund to a wider range of organisations who, in addition to employment services providers, will have an opportunity to put forward innovative ideas to address barriers to employment for individuals and areas that are highly disadvantaged, and
- a future New Enterprise Incentive Scheme (NEIS) panel with 18 900 training places being made available under the Productivity Places Program (PPP) for job seekers who wish to establish their own small business.

2.1.3. Exposure Draft – further consultation with industry

Following careful consideration of all submissions and feedback received into the consultations on the review of Job Network and the Discussion Paper, the Government decided on the nature of the reformed employment services.

The *Exposure Draft of Purchasing Arrangements for the new Employment Services 2009-12* which detailed the intended design of the new employment services and purchasing arrangements

was released on 1 August 2008. Consultations on the Exposure Draft were held around Australia, with comments closing on 29 August 2008. Seventy six submissions were received in response to the Exposure Draft and considered in finalising the employment services model and purchasing processes which were published in the *Request for Tender for Employment Services 2009-12*.

2.1.4. Request for Tender

The RFT for the new employment services was released on 27 September 2008.

The RFT incorporated changes resulting from stakeholder feedback on the Exposure Draft. These included:

- modification of the draft selection criteria to simplify the number and eliminate apparent duplication of requirements
- increased weightings given to local strategies in the selection criteria
- further development in the areas of work experience and performance management framework
- more detailed descriptions of the employment services requirements, and
- revised Employment Service Area (ESA) boundaries to better accord with local labour market conditions

In line with the Government's commitment to reducing administration and red tape so that Providers are not burdened by unnecessary requirements and can spend more time working with job seekers, the RFT also provided for:

- streamlined contract arrangements
- simplified payment structure
- one mid contract business re-allocation process
- one EPP, replacing multiple agreements and plans, and
- flexibility in the Employment Pathway Fund and servicing arrangements.

2.2. Outline of the new Employment Services Model - Job Services Australia

Job Services Australia will commence on 1 July 2009 and consists of:

- Stream Services, including specialist services
- NEIS
- the Innovation Fund
- Employer Brokers
- Harvest Labour Services (HLS), and
- National Harvest Labour Information Service (NHLIS).

Job Services Australia represents a reformed model which:

- focuses on the individual and provides immediate access to assistance for many more job seekers
- better tailors assistance in four Stream Services accessed by job seekers based on the extent of their own barriers to employment without the rigidities of the time-based continuum
- simplifies and provides more cohesive arrangements for job seekers by reducing the number of programs

- assists all job seekers, regardless of their level of disadvantage, by providing individually tailored assistance to develop pathways into sustainable employment
- builds linkages with employers to understand and meet their skill and labour needs
- incorporates and integrates work experience activities into the job seeker's pathway to attainment of skills and employment
- includes enhanced tools to assist job seekers, such as the new EPP, and access to additional, flexible support through the Employment Pathway Fund which is available for the first time to the most disadvantaged job seekers
- focuses on skills development and training with improved connections with the Productivity Places Program and vocational education and training, including Australian Apprenticeships
- is premised on local strategies which suit the local labour market and provide funding to support place-based, socially inclusive solutions assisting the most disadvantaged job seekers
- improves linkages with other stakeholders, including local community and health services, Registered Training Organisations, state, territory, local government and other service providers, and
- places greater emphasis on meeting the skill needs of the employers and the local labour market now and as the economy recovers.

Importantly, Stream Services, including specialist services, will be demand driven. This means that, for the first time, the most highly disadvantaged job seekers will no longer be subject to waiting periods for assistance in 'capped' program places, but will instead receive immediate access to a high level of assistance. Stream Services will assist those most disadvantaged and marginalised in the labour market.

2.2.1. Stream Services in the New Employment Services

In most cases job seekers will connect with Job Services Australia Providers following a referral by Centrelink. For most job seekers, the initial interview with Centrelink (combined with administrative data used in the Job Seeker Classification Instrument (JSCI)) will determine which of Streams 1 through 3 is most suitable, depending on their level of disadvantage. For job seekers with disability, special needs or other personal factors, however, a Job Capacity Assessment (JCA) will be used in assessing their level of disadvantage and non-vocational barriers. Services and fees are dependent on the level of disadvantage of the job seeker.

Job seekers who are most work ready will be referred to Stream 1, those with relatively moderate barriers to employment and those who have lost their job due to the impact of the global recession will be referred to Stream 2, job seekers with relatively significant barriers will be referred to Stream 3 and job seekers with severe non-vocational barriers to employment will be referred to Stream 4. Each Stream will have a Work Experience phase although job seekers can participate in Work Experience Activities at any time.

Job seekers who complete approximately 12 months of stream services in Stream 1 to 3 will progress into the Work Experience phase of their Stream. A Stream Services Review will be conducted to ensure this is the most appropriate course of action. For Stream 4, the Stream Services Review will consider whether the job seeker is likely to benefit from an additional six months of service in that Stream before moving to the Work Experience phase.

To suit their individual circumstances and the needs of their local labour market, job seekers will be able to undertake a range of Work Experience activities such as Work for the Dole or Green Corps activities, work experience placements, part-time study, part-time or casual paid

employment, voluntary work or experience in social enterprises, Drought Force farm-based activities, Defence Force Reserves, participation in appropriate non-vocational programs and services or placement in another labour market or skills development program.

Job Services Australia Providers will work with job seekers to negotiate an individually tailored pathway to employment. The EPP will identify the mix of vocational and non-vocational activities that job seekers needs, and Providers deliver, to achieve employment. Depending on the needs of the individual job seeker, the EPP will integrate education, training, non-vocational assistance, work experience, job search requirements and other support.

The EPF a flexible pool of funding, will be available for use by Providers to purchase assistance to address vocational and non-vocational barriers and to provide Work Experience Activities.

Providers will be paid service fees to assist job seekers in each Stream. Outcome payments for assisting Fully Eligible job seekers into sustainable employment or education will be paid, as will job placement fees. Service, placement and outcome fees are fixed and not subject to price competition.

Providers will also be expected to engage actively with employers, to understand their needs and ensure that job seekers are provided with assistance to enable them to meet employer needs. Outcome payments are weighted to reflect the importance of Providers engaging with employers.

2.2.2. New Enterprise Incentive Scheme (NEIS) Panel

A NEIS panel has been established that will provide a range of services to assist eligible unemployed people to establish and run a small business. The focus of NEIS will be on businesses in areas of skills shortage, and businesses established by job seekers who are Indigenous or highly disadvantaged.

2.2.3. Innovation Fund Panel

As a part of Job Services Australia, the Government has established the Innovation Fund to identify new ways to connect disadvantaged job seekers to training and employment. Projects that foster innovative place-based solutions to overcoming barriers to employment will be funded.

Priorities for the Innovation Fund include:

- job seekers in areas with entrenched disadvantage
- the homeless and those at risk of homelessness
- job seekers with mental health conditions
- Indigenous job seekers, and/or
- job seekers experiencing intergenerational unemployment.

The first projects will commence in July 2009.

2.2.4. Employer Broker Panel

Employer Brokers will ensure that employment services have a strong focus on matching the needs of job seekers with the labour requirements of employers. They will also coordinate and target the efforts of Job Services Australia Providers to better match the labour needs of employers with appropriate job seekers.

The first Employer Broker projects will commence in July 2009.

2.2.5. Harvest Labour Services

Harvest Labour Services will be available to primary producers in regions where there is a demonstrated need that out-of-area harvest workers are required. HLS providers will be required to gather vacancies from employers of harvest labour and supply the harvest workers necessary.

2.2.6. National Harvest Labour Information Service

The National Harvest Labour Information Service will continue under Job Services Australia. NHLIS will coordinate and distribute harvest labour information to interested participants across Australia.

2.3. Job Services Australia

Since Job Network was introduced in 1998 there has been a growing proportion of long-term unemployed people on welfare payments and a growing level of disadvantage amongst job seekers. In 1999 around one in ten unemployment benefit recipients were in receipt of benefits for five or more years and by March 2008 this had increased to almost one in four unemployment benefit recipients². These job seekers had been left behind in the various iterations of Job Network over 10 years. Job Services Australia is designed to enable these job seekers to overcome pre-vocational barriers and develop the skills they need for opportunities in the labour market.

People who are most vulnerable to job loss and unemployment are those with the lowest skill and job experience levels. This is exacerbated in periods of economic downturn. The most disadvantaged are likely to include younger and mature people, second income earners, those with low qualifications, Indigenous Australians, recent migrants and those in casual employment.

As discussed above, Job Services Australia has a greater capacity to assist those with highest disadvantage and to focus on skills development and meeting employer needs – this is important in growing economies and is even more important in times of economic downturn. The integrated service and individualised assistance provided through Job Services Australia will help job seekers affected by the economic downturn and support them in their return to work.

The current time-based continuum is being replaced with four streams enabling individually tailored interventions at the earliest opportunity consistent with the job seeker's level of disadvantage. Rather than moving in and out of programs, job seekers will be connected with a Provider of their choosing who will provide services supported by an adaptable EPF. This allows for a mix of training and employment interventions and vocational and non-vocational activities, which the evidence suggests is the most effective approach to achieving employment outcomes.

The model is sufficiently flexible to accommodate any movement in unemployment rates.

Under existing arrangements, caps or limited funding have restricted participation in programs such as PSP, JPET and Green Corps. Job Services Australia removes these caps and ensures immediate access to integrated employment and training activities with assistance to address the more serious non-vocational needs of highly disadvantaged job seekers.

² DEEWR Internal Administrative Data

In the previous arrangements there was a number of individual employment service programs (Job Network, Work for the Dole, PSP, JPET and Green Corps). Feedback from providers was that this created significant administrative burden, especially for the many who delivered more than one of these programs. With all major employment service contracts expiring on 30 June 2009, there was an opportunity for substantial reform of Government employment services. In the case of the vast majority of Job Network business, there were no valid options to extend, as all options had been fully exhausted.

The development of Job Services Australia provided scope for a simplified and streamlined program structure that would clarify objectives, reduce overlap and duplication, cut complexity for providers and improve efficiency and effectiveness.

Under current servicing arrangements providers have multiple contracts for different services. A single deed covering all employment services will reduce the administrative burden on Providers and allow more time to be spent on servicing job seekers rather than on red tape. The amalgamation of several services into Job Services Australia will result in a single fee, outcome and performance management structure. This will simplify the complex array of payments and reporting requirements while reducing the duplication of activities.

Job Services Australia is a key component of the Government's agenda to increase Australia's productivity through education, a better system of matching skills, people and jobs, and fair and productive workplaces. The Government has indicated that the focus on education and jobs is more important in the context of the global recession. Employer Brokers, as part of Job Services Australia, will ensure that employment services have a strong focus on matching the needs of job seekers with the labour requirements of employers.

As well as undertaking reviews of general employment services, the Government has completed reviews of services for people with disability as well as employment services for Indigenous job seekers. Through initiatives such as the PPP (an investment of \$2 billion to deliver over 711 000 training places over 5 years), the Training and Learning Bonus announced as part of the Nation Building – Economic Stimulus Plan and the new Training Supplement for low skilled, unemployed people announced in the 2009-10 Budget, the Government is investing in the skills base to meet the workforce needs of today and in future.

2.4. The Employment Services Model and Social Inclusion

The Government believes that all Australians need to be able to play a full role in all aspects of Australian life. To be socially included, all Australians must be given the opportunity to:

- secure a job
- access services
- connect with family, friends, work, personal interests and local community
- deal with personal crisis, and
- have their voices heard.

Social inclusion requires a new approach to developing and implementing policy and programs and requires strong partnerships between all levels of government, business and community organisations to address economic and social disadvantage.

The review of Job Network and re-design of the Government's employment services was a part of the Government's agenda for social inclusion and commitment to boosting the skills and productive capacity of the workforce. Its aims and outcomes include:

- early intervention to minimise the number of long-term, welfare-dependent Australians of working age
- providing services that are relevant to the circumstances and needs of individual job seekers
- ensuring job seekers who are struggling the most get the most intensive assistance
- providing meaningful incentives and access to training
- meeting skill shortages
- providing the greatest rewards when Providers find sustainable jobs for job seekers as early as possible
- ensuring there is a performance management and tendering system that properly accounts for quality performance, and
- minimising the amount of time and money spent on administration.

As part of the re-design, the Government also reviewed Job Capacity Assessment and JSCI to improve their operation in identifying:

- those at risk of long-term job seeking
- those job seekers requiring further specialised assessment and referral to appropriate services
- those in need of access to intensive forms of employment assistance and/or other interventions, and
- disadvantage in different groups of job seekers, including those disadvantaged by local factors.

2.5. The Employment Services Model and the impact of the global recession

A key feature of Job Services Australia is its flexibility and focus on skills development. The Government's investment in PPP, especially for job seekers, complements this.

There are a number of important lessons from previous economic slowdowns in Australia and internationally that cover both assisting the unemployed to find employment as well as promoting on-going social participation and engagement and skills development.

An important role for labour market programs during an economic slowdown is to keep job seekers engaged with the labour market. Reduced labour market attachment will increase the significant risk of skills atrophy and poorer health among the unemployed. A focus on maximising labour market attachment among unemployed income support recipients, especially those who are new to income support, can act to minimise the flow from short-term receipt into long-term income support reliance.

Evidence from the Department's net impact studies indicates the benefits, particularly for the most disadvantaged, of participation in employment assistance even where there are more limited job opportunities.

Some industries, including construction, are particularly sensitive in a downturn and take a longer time to recover. Construction and finance and insurance saw the largest declines in the early 1990s. While accommodation and food was less sensitive at that time, a disproportionate share of job seekers came from the sector.

However, there will continue to be opportunities in the labour market including those created by the Government's economic stimulus initiatives and to meet persistent skills shortages in a number of significant areas. Over the past year substantial employment growth has occurred in industry sectors including utilities and transport and logistics. Other industries, such as aged care and child care, continue to experience high demand for employees. Employment Brokers, working with Job Services Australia and training providers, have the capacity to develop local strategies to address the existing and emerging needs of employers and ensure that job seekers have suitable skills.

Eligible job seekers will receive assistance tailored to their individual needs and level of disadvantage. Job seekers will be provided with the right mix of training, work experience, tailored case management and other assistance to help them find and keep a job and to meet the challenges of rising unemployment due to the global recession. There is a greater focus on helping the most disadvantaged.

The EPF will enable Providers to purchase a range of support for job seekers specific to their vocational and non-vocational needs. This includes: job search travel assistance, work clothing, uniforms and safety equipment, wage subsidies, drug and alcohol counselling, work experience and training.

Job Services Australia also has a greater focus on employers. Providers will work with local employers to understand their labour needs and how best to fill their job vacancies.

As announced in the 2009-10 *Budget*³, Job Services Australia represents an investment of \$4.9 billion in services for the unemployed over the next three years. This includes an increase of \$1.1 billion since the 2008-09 Budget to take account of the effects of the global recession. These services are demand driven which allows flexibility to cater for movements in unemployment rates.

Around \$300 million of this additional assistance is to provide immediate access for newly retrenched former workers to Stream 2 services, many of whom would have otherwise entered into Stream 1 services. This is supplemented by additional training places and pre-vocational support to provide retrenched employees with the opportunity to gain and improve their work skills.

Job Services Australia is one part of the Government's response to the global recession, accompanying the PPP, training reforms and economic stimulus measures including the Building the Education Revolution and other significant infrastructure investment. Job Services Australia is therefore part of the economic strategy designed to meet Australia's future skills and workforce needs and ensure that economic recovery does not result in particular regions or groups being left behind.

The Government also announced, in the 2009-10 Budget, \$650 million for the Jobs Fund aimed at producing long-term improvements in communities affected by the global economic recession. This initiative will support and create jobs and increase skills through innovative projects that build community infrastructure and increase social capital in local communities across the country. Through the Jobs Fund, the Government will invest in one-off capital projects and provide seed funding for social enterprises. The Jobs Fund is a joint Government initiative consisting of three streams:

³ The Treasurer and the Minister for Finance and Deregulation (2009), *Budget Strategy and Outlook, Budget Paper No. 1, 2009-10*, p. 1-17, CanPrint Communications Pty Ltd, Canberra.

- *Local Jobs* – up to \$300 million for community infrastructure projects with a focus on the promotion of environment-friendly technology and heritage. Of this, \$60 million has been specifically set aside for heritage-related projects and \$40 million has been allocated for the construction of bike paths
- *Get Communities Working* – up to \$200 million to invest in seed capital for self-sustaining projects that create jobs and provide activities and services to improve community amenity, and
- *Infrastructure Employment Projects* – up to \$150 million for investment in infrastructure projects that generate jobs in regions affected by the economic downturn.

The Government has allocated \$20 million for the placement of Local Employment Coordinators in some regions in Australia that have been impacted by the global recession more than others. Their role is to manage and drive local responses to job losses and declining economic conditions.

Local Employment Coordinators will play a vital role in:

- ensuring there is a rapid response to helping employees who are made redundant
- coordinating government, community and business partnerships to stimulate local economies and generate new job opportunities, and
- brokering agreements between the Australian, state and local governments in order to align efforts across all tiers of government and strengthen community links.

Local Employment Coordinators will also work with community stakeholders to identify and develop effective projects that are eligible for the Jobs Fund and can be quickly implemented. They will initially be located in seven priority areas identified as most in need:

- Canterbury-Bankstown and south western Sydney in New South Wales
- Illawarra in New South Wales
- south eastern Melbourne in Victoria
- Ipswich-Logan in Queensland
- northern and western Adelaide in South Australia
- south west Perth in Western Australia
- Northern Tasmania.

2.6. The Employment Services model and the 2002 Productivity Commission Report – Independent Review of the Job Network

There have been several previous reviews and evaluations of employment services since the inception of Job Network in 1998.

The *Independent Review of the Job Network* by the Productivity Commission was released in 19 September 2002. The Productivity Commission found Job Network's purchaser-provider model to be a suitable policy framework for the delivery of active labour market programs and highlighted the key features of outcomes orientation, competition and job seeker choice.

The Commission made several recommendations regarding the purchasing of employment services. As well as recommending the retention of a purchaser-provider model for employment services, the Commission recommended that:

- after Employment Services Contract 3, competitive tendering in the Job Network be replaced by licensing that ultimately permits free entry at any time to any supplier that

meets the Department's accreditation standards and includes automatic licence renewal, subject to a requirement that providers achieve a certain performance standard. (Recommendation 11.1), and

- in the long run there be no regulated limits on caseloads and/or the absolute number of payable outcomes for individual Job Network providers. However, in the short run, there should be scope for Job Network providers to exceed their contracted capacity by a given margin, which should be increased progressively (Recommendation 11.3).

Licensing systems typically operate on the basis that any organisation that meets minimum licence requirements may enter the market and offer their services. This contrasts with an open but competitive tender process where the Department selects the best tenderers to be awarded contracts to deliver services. The main difference is that the tender and contracting system aims to select the best organisations to assist job seekers, compared to any organisation that meets a base minimum requirement.

Licences have not been supported since the Commission's review as it is not apparent that such a system would underpin the quality of services or offer net benefits to job seekers, employers or the market, for example:

- A licensing system would give less certainty to providers to invest in and deliver quality services to job seekers. Continuing providers who are expanding and new entrants incur start up costs and are reliant on receiving a caseload at the commencement of the contract as well as a flow of new job seekers to cover these costs and their normal running costs. Under a licensing system no provider could know whether or when other licensees would start up nearby without notice affecting their client flow and viability. By contrast, the tender has awarded the selected tenderers business for a period of three years (with capacity to extend) and a level of certainty as to their business levels and service coverage.
- While a licensing system requires providers to meet a minimum of services it has little or no incentives for providers to provide the best quality of service to the job seeker. The Job Services Australia deed includes a performance management framework and a provision for business reallocation after 18 months which encourages Provider performance and minimises disruption.

In addition, stakeholder consultations in the development of the new employment services model did not show support for a licensing system.

The Commission's recommendation regarding the removal of caseload regulation relates to the arrangements at the time of the report where contracts placed limits on the supply of services by Job Network providers by specifying maximum point-in-time capacity and/or contract client numbers over the contract period.

Consistent with this recommendation, the notion of a tolerance (that is, a capacity within a set range of 80 to 120 per cent of the contract capacity) was introduced to Job Network under the Active Participation Model to encourage job seeker choice by allowing room for referral if the provider was at notional capacity. The tolerance has been increased for the Job Services Australia arrangements to a range of 70 to 130 per cent of contract capacity to provide even greater scope for job seeker choice of particular Providers. The setting of market share capacity, based on proven job performance, is vital to ensure that Providers must compete for job seekers on the basis of outcomes achieved for their job seekers.

In addition, for Job Services Australia, services where job seeker numbers were restricted (such as PSP, JPET and Green Corps) have been integrated into Stream Services which are demand driven. All Providers of Stream Services are offered a percentage of the market in an ESA. Stream Services are not capped and job seeker numbers are not specified.

3. Overview of the procurement process

The approach to the procurement for Job Services Australia was informed by the design and requirements of the new employment services model. In particular, the Statement of Requirements contained in the RFT and the selection criteria were specifically designed to reflect the key components of the new model, for example, the focus on highly disadvantaged job seekers, skills attainment and meeting employer needs as well as the requirement for local strategies which were relevant to particular communities and local labour markets.

Procurement of services under the Employment Services Deed 2009-2012 comes within the provisions of the *Commonwealth Procurement Guidelines 2005* (CPGs) issued in December 2004 under the *Financial Management and Accountability Regulations 1997* (FMA Regulations) and applicable when the RFT was released in September 2008.

As the proposed reforms to employment services from 1 July 2009 are a substantially different service, this is considered a material change to services and as such represents a new procurement for the purposes of the CPGs.

In the case of Job Network, the Commonwealth has no valid contractual capacity for further extension beyond 30 June for 95 per cent of current business. For other current programs such as the PSP and JPET, it would not be consistent with the introduction of the new integrated employment services model to extend these programs beyond 30 June 2009 in their present form as they were to operate differently and they had been subsumed into the new integrated model.

Given the procurement of services under the Employment Services Deed 2009-2012 is a new procurement, is not exempted under the CPGs and has a value above \$80 000, it is a covered procurement. Except in limited circumstances that do not apply here, the CPGs mandate an approach to the open market for covered procurements. An open tender process was the most efficient and effective approach to the open market in these circumstances

The tender process was undertaken by the Department of Education, Employment and Workplace Relations and was overseen by an independent Probity Adviser and provided each tenderer with an equal opportunity to compete. The process was conducted at arms length to Government.

The tender process developed and implemented by the Department was supported by robust governance arrangements and a comprehensive set of tender guidelines and detailed training and support for the staff undertaking the assessments.

The independent Probity Adviser provided sign off of the guidelines and governance arrangements prior to the tender closing in November 2008 and provided an unqualified sign-off on the conduct of the whole tender process.

3.1. The Request for Tender for Employment Services 2009-12

The content of the RFT directly reflected the design of Job Services Australia. The RFT clearly articulated the new employment services model by setting a statement of requirements for each of the services and panels that formed part of the RFT. Selection Criteria, detailed descriptions of the processes required to submit a tender, financial viability requirements and instructions for electronic submission of the tender response to Austender were also included.

The RFT sought submissions in relation to the following services:

- Stream Services (Generalist/Specialist (such as for homeless, young or Indigenous job seekers)/Remote)
- NEIS Panel
- Innovation Fund Panel
- Employer Broker Panel
- Harvest Labour Services, and
- National Harvest Labour Information Service.

The overriding principle guiding the selection of tenderers to provide employment services was value for money to the Australian Government. *Value for money* is the core principle underpinning Australian Government procurement. Value for money is enhanced in government procurement by:

- *encouraging competition* by ensuring non-discrimination in procurement and using competitive procurement processes;
- promoting the use of resources in an *efficient, effective and ethical* manner⁴; and
- making decisions in an *accountable and transparent manner*.

All potential suppliers should have the same opportunities to compete for government business and must, subject to the CPGs, be treated equitably based on their legal, commercial, technical and financial abilities. Procurement methods must not discriminate against potential suppliers due to their degree of foreign affiliation or ownership, location or size.

The process and final decisions were based on the principle of value for money.

Accompanying the release of the Discussion Paper, Exposure Draft and the RFT were arrangements designed to assist and inform potential tenderers about the design of the new employment services and the details of the tendering process. These included an extensive series of public presentations, Question and Answer sessions and information on the employment services purchasing website

In addition at the National Employment Services Association (NESA) Practitioners Conference in late May 2008 there was a discussion of the new employment services arrangements that had been outlined in the Discussion Paper. In order to educate the industry as well as to inform potential tenderers, the Department delivered workshops at the NESA National Conference held in August 2008. These workshops were publicised to all conference attendees, several hundred people from within the employment services industry, as a source of information, further explanation and consultation on the new employment model.

Further support for potential tenderers, particularly for small organisations, was provided through NESA included:

- a dedicated website that provided a suite of information resources about the new employment services and included an online discussion forum to assist the promotion of linkages between potential tenderers,
- delivery of information sessions and promotion of the website to assist with the facilitate potential partnering arrangements, and
- providing help desk support to potential tenderers regarding partnerships.

⁴ *Commonwealth Procurement Guidelines 2005*, Department of Finance and Administration, p.17.

3.1.1. RFT - The process

The RFT for Job Services Australia describes a set of factors that would form the basis of considerations, assessments and decisions. Consideration of tender bids was made against the entirety of each tenderer's response to the requirements of the RFT including:

- the responses provided by the tenderer to all selection criteria
- proposed coverage and servicing strategies
- preferred business level bid ranges offered by tenderers for stream services
- verification against relevant sources, and
- financial viability assessment of organisations and the relative risk of each proposal.

Job Services Australia is an integrated service model designed specifically to address the needs of all eligible job seekers and focussing on delivering individually tailored services suited to meeting local needs. The Department's decisions took account of tender bids in respect of the local linkages to, and collaboration with, other relevant services, particularly those that meet the vocational and non-vocational needs of job seekers as well as the quality of services, incorporating demonstrated past performance of each tenderer of the services or similar services being tendered.

Decisions were further supported by considerations of diversity, including a mix of small, medium and large organisations, client choice, appropriate coverage, meeting the needs of specific client groups and the flexibility to adapt over the term of the contract.

Price was also an underpinning principle for assessing value for money in relation to proposals for the Harvest Labour Services (HLS) and the National Harvest Labour Information Service (NHLIS).

The tender evaluation framework included assessment against the selection criteria and the process for allocating business.

3.1.2. RFT - Selection Criteria

The Selection Criteria for stream services were the basis for assessing each tenderer's ability to deliver the full range of stream services tailored to an individual job seeker's needs and the local circumstances. Selection criteria and the sub criteria were designed specifically to give tenderers the opportunity to demonstrate the effectiveness of local strategies and services and how their experience and expertise translated to the new integrated model. This included how the proposed strategies and experience would operate within the new integrated model and deliver better outcomes for job seekers and employers as well as meet local labour market needs.

As discussed in Chapter 2, employment service providers and other stakeholders had the opportunity to comment on the proposed selection criteria and the weightings included in the Exposure Draft of the RFT. To better reflect the importance of delivery of services, linkages and collaboration at the local level, the Criterion 3 weighting was increased from 30 per cent in the Exposure Draft to 40 per cent in the final RFT. Based on the feedback provided, the selection criteria were streamlined with the number of questions reduced from 50 to 22, and responses to Criterion 2 to be sought at the organisational level and not for each ESA for which they were tendering. The weighting for Criterion 2 was therefore reduced to 20 per cent.

For Stream Services, weightings assigned to each of the four selection criteria emphasised that this was a significantly different model with key components focussing on the individual needs of job seekers, the importance of skills development and employer connections as well as the requirement for appropriate local strategies tailored to the specific circumstances of each ESA. Tenderers needed to demonstrate their understanding of the new approach together with their ability to translate this understanding into appropriate locally-based servicing strategies. These requirements are reflected in the design and weighting of Criteria 2 and 3.

Integrated employment services being purchased through the RFT replace separate programs with discrete objectives. Therefore, performance ratings/rankings in relation to specific Job Network or other current employment services programs (such as star ratings) are less relevant individually to the new integrated Job Services Australia arrangements. Nevertheless, past experience in individual programs was an important consideration and was taken into account and attracted a weighting of 30 per cent, the same weighting given to that criterion in the Exposure Draft of the RFT. However, it was not the sole consideration in determining the comparative ranking and selection of tender bids.

The remaining criteria covering the tenderer's understanding of the services to be delivered and proposed future servicing strategies, as well as their management and governance arrangements, had a combined total weighting of 70 per cent reflecting the fact that the tender was for a new employment services model. These weightings were also in alignment with feedback from the industry and other stakeholders (including their expression of concern with the star ratings and the need to reward a different approach in the new model).

In summary, the weightings applied to the criteria in the RFT were:

- Criterion 1: Past performance (weighting of 30 per cent)
- Criterion 2: Understanding and general strategies (weighting of 20 per cent)
- Criterion 3: Local strategies (weighting of 40 per cent)
- Criterion 4: Management and governance (weighting of 10 per cent).

Selection criteria for Innovation Fund, NEIS and Employer Broker Panels, Harvest Labour Services and National Harvest Labour Information Service were also designed to give tenderers the opportunity to demonstrate in their responses their experience and expertise and how this would deliver better outcomes for job seekers and employers as well as meet local labour market needs.

3.2. Assessment of tenders

The Department undertook a rigorous and comprehensive assessment of all Tenders to select the best service providers for job seekers, including those who have special needs, and for local employers. The assessment process was designed taking account of the experiences of previous employment services tenders but also to reflect the distinctly different design of the integrated services.

The tender process was supported by robust governance arrangements covering project management planning and reporting and a Tender Review Committee (TRC) comprising of senior Departmental officers. An internal legal advisor, the independent Probity Adviser and purchasing experts were also present at the TRC meetings. Tender documentation prepared for the tender included a set of guidelines covering all stages of the tender evaluations process from lodgement of tenders to the final decisions. Guidelines, governance arrangements and evaluations processes were approved and signed off by the Probity Adviser prior to the tender closing in November

2008. All staff involved in the tender received probity training and staff specifically involved in the evaluation process received detailed training and support covering each stage of the evaluation.

A comprehensive process for the evaluation was undertaken where tenderers responses and claims were assessed in accordance with approved guidelines and against the published selection criteria including checking of claims against data and information held by the Department or through verifying the claims through external sources as appropriate.

There were multiple levels of assessment and review as well as credential and financial viability checks. A formal quality assurance process throughout the whole process was overseen by legally qualified staff. The considerations included assessment of tender responses by teams of two departmental officers and reviews by a senior Account Manager for consistency, and completeness as well as testing any assertions. Assessment and reviews were undertaken by departmental staff with detailed understanding and local knowledge of the ESAs and the capacity and expertise to test and verify claims and validate the appropriateness of local services and strategies and their relevance to the ESA. State Managers also undertook a further comparative and consistency check across all the ESAs in their state as well as the providers for whom their State had account management responsibility. Recommendations and proposed business allocations were made to the TRC and delegate who also undertook a review and assessment across each ESA, State and nationally.

Also, the final TRC recommendations for Stream Services took into account the data on the impact of the emerging global recession, including the release in mid March 2009 of the new unemployment figures. This was to ensure that the level of service available in those locations was consistent with the demand for the service, and that job seekers, would be well serviced into the future by providing new services that would deliver better, more tailored assistance to job seekers, particular disadvantaged Australians, and place greater emphasis on assisting employers in addressing skills shortages. This is consistent with the stated objective of the government as published in the RFT.

The tender process has been monitored throughout and at each milestone by the independent Probity Adviser, Clayton Utz, who has been satisfied that the process has met all probity requirements and describes the process followed by the Department as meeting all requirements of the FMA Act and the FMA Regulations applicable to procurement outcomes. In particular, the Probity Adviser noted that the allocation of business to tenderers and panel appointments evidenced an efficient, effective and ethical use of Commonwealth funds and represented best value for money to the Commonwealth.

3.3. Early '*without prejudice*' advice

The design of the new employment services model involved a substantially new framework for the delivery of employment services, with potentially more diverse organisational structure arrangements by tenderers to undertake the business, such as consortia, joint ventures and partnerships (termed Tendering Groups in the RFT) as well as the increased use of subcontracting arrangements.

It was therefore prudent for the Department to consider and to include appropriate risk management strategies in the tender evaluation process, in order to ensure the quality and availability of services to job seekers as well as protect Commonwealth interests and monies.

An early advice process provided an opportunity to confirm matters with preferred tenderers prior to the final decision. An early advice to preferred tenderers often occurs as part of Commonwealth procurement processes and is an established procurement practice. Similar early announcements of multiple preferred tenderers prior to the relevant agency proceeding to a final selection decision, contract negotiation and contract award occur in large procurements in departments such as Defence and other government agencies with high value tenders.

For Job Services Australia, there was an appropriate basis for including this step in the employment services tender process. The Department needed to be satisfied that all preferred tenderers, tendering group members and their subcontractors, continued to have the capacity to deliver the required services. Further, the early '*without prejudice*' announcement gave preferred tenderers the opportunity to bring any such issues, or other relevant matters, to the Department's attention. This was particularly critical where some tenderers could have proposed to use the same subcontractor.

The 'without prejudice' advice to preferred tenderer status for the *Request for Tender for Employment Services 2009-2012* was part of the process leading to final decision and was clearly outlined in both the Exposure Draft of the RFT and the final RFT as well as during the supporting information sessions.

In line with normal practice applied in other Commonwealth tenders the Department advised preferred tenderers on an in confidence basis via email on 16 March 2009. In addition, the Department provided general updates on the progress of the tender throughout the process. Towards the end of the tender process updates were also posted on the Department's workplace.gov.au website.

3.4. Announcement of Final Outcomes

The announcement of the final outcomes of the RFT occurred from 3 March 2009, starting with the Innovation Fund Panel, to 1 April 2009.

On 1 April 2009, the Minister for Employment Participation announced the overall results for the tender. The following day, 2 April 2009, a letter was emailed to all tenderers advising them of the outcome of their tender bids and the outcomes published by the Department on the internet.

There were no differences between the Department's decisions and the announcements by the Minister for Employment Participation.

In addition to advising tenderers of the outcomes of the tender, the Department immediately commenced following up with all tenderers to respond to any questions and provide assistance with managing the tender outcomes.

Debriefings for tenderers commenced on 1 May 2009. The purpose of the debriefing sessions was to provide tenderers with oral feedback on the evaluation of their tender bids. The Department considers that a useful debrief is important to assist each tenderer to understand how their submission was assessed and to provide information that might assist each tenderer with future tender submissions.

On 9 April 2009, the Employment Services Deed 2009-2012 for each successful tenderer was distributed. Following receipt of the letter and the Deed it was open to each tenderer to raise with the Department matters of detail, for example, where a tenderer proposed to vary the hours of operation, or the actual location, of a particular site.

3.5. Probity

The Department is required to conduct all procurement processes in a transparent way, ensuring that tenderers were treated fairly and that information relating to the tender process was communicated consistently and uniformly.

The role of 'probity' in a tender process is about fairness, transparency and impartiality. Probity ensures that the Department conducts a tender process in an ethical and equitable way and that due process is followed (for example, that the procedures set out in the RFT document for the assessment of tenders are followed in practice).

Fairness, transparency and impartiality were also reflected in detailed provisions of the RFT.

The Department engaged an independent, external Probity Adviser. The Probity Adviser was:

Luke de Jong—Special Counsel

Clayton Utz

Telephone: +61 2 6279 4050

Fax: +61 2 6279 4099

Email: ldejong@claytonutz.com

The role of the Probity Adviser was to advise the Department on the probity and integrity of the purchasing process. The role includes developing an overarching probity plan that can be applied to the procurement and providing advice on probity issues, conducting appropriate probity training and advising on relevant security arrangements. Detailed consideration, assessment and quality assurance, all overseen by the Probity Adviser, preceded the Department's final decisions being made.

A communication protocol was established and published in the RFT in order to ensure fairness, transparency and impartiality in relation to any necessary communications. For example, where a tender was incomplete or contained unintentional errors of form, the RFT provided the rules for communication to any tenderer affected. This protocol was followed throughout the tender including the '*without prejudice*' advice to preferred tenderer period.

On 20 March and 1 April 2009, the Probity Adviser provided interim sign offs on the tender process in respect of the preferred tenderer milestone and the final decision.

On 8 May 2009 the final probity report on the *Request for Tender for Employment Services 2009-2012* was received by the Department. This report provides an unqualified sign off on the conduct of the tender process.

In its final report Clayton Utz observed that the Department's conduct of the Employment Services Procurement Process represented a high benchmark for the conduct of Commonwealth procurements in that the Department not only met, but in many cases exceeded, relevant probity principles and standards. The report also noted that the Department provided a comprehensive level and excellent quality of support and training for its staff and contractors involved in the Process and established and maintained very robust governance and quality assurance arrangements for its conduct of the Procurement.

4. The Outcomes of the tender process

The RFT for Job Services Australia was very competitive and received a high level of support. In all, 438 organisations submitted a tender across all 116 ESAs, which included almost 3000 individual bids.

Job Services Australia has offered opportunities for local community based, specialist and Indigenous organisations to be part of the service delivery network. The outcomes of the tender reflect the application of the tender evaluation processes designed to support the new integrated model, specifically, Providers who will use their expertise, local linkages and partnerships with and capacity to respond to local labour needs to assist all job seekers, but especially the highly disadvantaged into employment.

Tenders were received from large and small organisations, including a good mix of for-profit and not-for-profit organisations and a good mix of generalist and specialist bids from these organisations. This included a number of Indigenous and community organisations bidding in their own right, as part of a sub contracting arrangement or in a community based partnership.

The tender outcome has provided a diverse range of national and local Providers, including a large number of Providers with specialist expertise.

For the first time since 1998 community-based organisations feature significantly in the profile of Providers of employment services with an increase in the number of such organisations who have business shares placing them in the twenty largest employment service Providers. This places a significant amount of business in the hands of smaller/local Providers offering diversity for job seekers and opportunities for small organisations.

Almost 81 per cent of the contracts awarded will operate within one single state or a regional location. Around 95 per cent of the organisations who will deliver Stream Services (in their own right or as part of a tendering group) are existing employment service providers.

4.1. Providers - Job Services Australia

Employment Services Deeds for Stream Services have been awarded to 116 successful tenderers. Including the organisations that form part of successful tendering groups, there will be around 140 entities delivering Stream Services either in their own right or together with another organisation. Further, a significant number of subcontractors will be engaged in delivery of services.

There was also a mix of organisations approved for panel membership for the NEIS, the Innovation Fund Panel and for the Employer Broker Panel.

Of the around 140 organisations that were successful in gaining business (either in their own right or together with another organisation)⁵:

- 70 were existing Job Network providers
- 38 were existing Community Work Coordinators
- 49 were existing PSP providers
- 29 were existing Job, Placement Employment and Training providers
- 24 were existing NEIS providers
- 6 were existing Harvest Labour Service providers, and
- 2 were existing Green Corps providers

The tender outcomes have seen an expansion of Indigenous organisations delivering mainstream and specialist employment services, particularly throughout NSW, NT, QLD and WA. Around 25 Indigenous organisations were successful in gaining business in their own right as part of a tendering group, and others are sub contracting to successful tenderers.

The proportion of business contracted to not-for-profit and for profit entities in Job Services Australia is broadly consistent with the current Job Network arrangements.

The key difference, however, is there are more not-for-profit and community based organisations that will be directly involved in the day to day service under Job Services Australia than the former programs. Almost 80 per cent of Providers delivering face to face services to job seekers originate from a not for profit base.

As part of its obligations as signatory to free trade arrangements, the Government is required to ensure that all procurement is open to foreign entities. The tender outcome has seen two new entrants to the stream services market who have related entities based overseas. These entities will deliver less than two per cent of employment services. It was a condition of the RFT that a tender from a foreign company could be accepted only if that company was registered under the *Australian Corporations Act 2001*. It should be noted that there are organisations with an overseas base or parent company who have been delivering employment services in Australia since Job Network commenced in 1998.

4.2. Local and specialist providers

The design of Job Services Australia and associated purchasing arrangements offered opportunities for local community based, specialist and Indigenous organisations to be part in the service delivery network. This was achieved through a number of mechanisms including:

- the design and weighting of selection criteria. As discussed in the previous chapter, the selection criteria weightings gave more emphasis to understanding of the new model and tenderers' ability to translate this into locally tailored strategies. This gave smaller community-based organisations greater opportunity to demonstrate their strengths and abilities in these areas
- increased flexibility in allowing organisations to form different types of tendering groups or sub contracting arrangements and operate in a manner which best suited their needs. The tender outcomes have seen more partnerships, alliances and subcontracting arrangements than were evident in past programs. Further, this tender has provided organisations that are in

⁵ Note: existing providers may be counted in more than one of the above program categories if they delivered more than one service.

current subcontracting arrangements the opportunity to tender in their own right and be successful. In particular, two organisations that took this option were successful in securing business with one entering into the ten largest Providers. As indicated in Chapter 3, NESA provided assistance to potential tenderers interested in partnering for the new employment services

- a significant number of smaller specialist or locally based employment service providers will continue to operate as subcontractors, and
- support for specialist services in addition to the provision of general stream services. Tenderers were encouraged to bid as a specialist Provider where they were able to demonstrate and quantify the need for a specialist service. Where appropriate, specialist bids were awarded business to ensure diversity of service provision.

As a result, in addition to the vast range of Providers delivering generalist employment services, there will be 158 individual specialist services across Australia delivering services to groups including the homeless, youth/youth at risk, people with disability, ex-prisoners, Aboriginal and Torres Strait Islander peoples, people from Culturally and Linguistically Diverse backgrounds, those with specialist Mental Health needs, people who are blind and visually impaired, and refugees who have experienced torture and trauma.

This process, therefore, is delivering choice of suitable Providers for job seekers and ensuring value for money.

4.3. Job Seeker servicing

The level of disruption for job seekers is significantly less than in past Job Network transitions. Nevertheless, the Department is committed to ensuring that the level of disruption is minimised including through ensuring that, wherever possible, job seekers remain with their continuing Providers or, where a job seeker does need to move to a different Provider, this is handled as smoothly as possible and the job seeker is kept fully informed. Transition arrangements are discussed more fully in Chapter 5.

The move to a new service delivery model has seen some current providers either take the opportunity to take different business directions or to tender under different arrangements. The extent of these decisions can also impact on the number of job seekers moving to different Providers.

Changes to the employment service providers can also lead to change for the employees of unsuccessful tenderers. The Government does not want to see people with these skills lost from the industry.

The Department is working in partnership with industry to implement initiatives to retain workers and their valuable skills. Officers from the Department have been in regular contact, and will continue to be, with each of the existing employment services providers who have been unsuccessful in retaining their current level of work, to ensure they are aware of the full range of services available to them, facilitate solutions and to mitigate the impact on their employees.

In addition, all staff have access to the training modules for the new services developed by the Department, enabling them to position themselves for employment with another Provider. Eligible employees who wish to access other skills training can do so through the PPP.

As a result of the global recession, Australia is facing an increased number of people who are in need of assistance from Job Services Australia. Therefore, there is a high demand for workers with skills in providing employment services and new job opportunities are expected to be readily available.

Reports from the industry indicate that there is already movement of staff between providers as part of the preparation for the commencement of the new Deed on 1 July 2009. This confirms the demand in the market for experienced employees.

Resources have also been provided to the peak provider association, NESA for a website to connect Providers seeking experienced available staff.

4.4. Agency Adjustment fund

As indicated in the RFT, the Department is considering on a case by case basis, proposals from unsuccessful providers to exit their contract early.

In addition, in order to facilitate retention of experienced organisations in the human services sector, the Government has established a \$3.5 million Agency Adjustment Fund to help organisations affected by the tender outcome to re-orient and develop new opportunities. The Agency Adjustment Fund is designed to assist businesses to transition or reorientate their business to new opportunities and facilitates businesses remaining in the community and retain skills and expertise.

Not-for-profit organisations were able to apply for Agency Adjustment Fund grants of up to \$100 000 to help them continue to operate beyond 30 June 2009 to help secure their longer term viability. Assistance will be targeted towards those not-for-profit, community-based organisations that have expertise, a track record and a desire to continue to provide community based services in their local communities.

The Government is working closely with providers and unions to facilitate the transition of employees to new employment opportunities as quickly as possible.

Consistent with its commitment to consult with the industry on reforms to the employment service market, the Government has undertaken to continue this consultation on future procurement related activities such as the single mid point contract reallocation. In response to a request from NESA, the Government announced on 7 May 2009 that it would form a reference group of employment service Providers, the Australian Services Union and organisations representing job seekers, in order to receive feedback and to provide the Government with advice about the conduct of future purchasing and related processes in the interest of continuous improvement.

5. Transition Arrangements

Transition arrangements for the new employment services are based on the essential need for reform of the current services and on the interests of job seekers. Transition is fully on track for the commencement of the new services on 1 July 2009.

Extensive engagement with stakeholders, together with learning from previous transitions, have been used to ensure the current transition provides better and more seamless assistance to job seekers, and more timely support for providers than in past transitions. This engagement has been underpinned by early and comprehensive project planning to ensure all aspects of the new employment services are fully ready for 1 July 2009.

Improvements include:

- simpler, clearer and more timely service guidelines and reference materials, including training materials, incorporating Provider input
- redevelopment of the Information Technology tools to support quality job seeker servicing, designed in close consultation with Providers to reduce red tape, streamline on-line support, enhance usability and deliver more of the features sought by users
- better arrangements for servicing job seekers in the lead up to the new services, responding to provider feedback on the adverse affects of past approaches
- special arrangements to support and assist more vulnerable job seekers, and
- clear communications with job seekers to ensure that they are successfully informed about and connected with their future Provider, whilst maintaining scope for job seeker choice.

The Department has also been working closely with current and future providers to assist them in their own preparations and planning. A key hallmark of transition preparations has been early and extensive engagement with providers and stakeholders both through the broad-based consultation processes and formal advisory bodies: the Transition Reference Group; the Charter of Contract Management Reference Group; the Performance Management Expert Reference Group and Technical Reference Groups; and the IT Advisory Group, as detailed below.

5.1. Request for Tender Transition principles

A smooth transition was one of the key discussion points in the Government's Discussion Paper on the Future of Employment Services in Australia. Specific job seeker transition arrangements were set out in the Exposure Draft and RFT (page 54).

The RFT also set out the high level objective and principles for transition. These included the objective for a smooth transition to ensure limited disruption to Providers assisting job seekers into employment (and training) and limited disruption to services for job seekers, and Transition Principles that:

- transition activities must support the commencement of the new Employment Services on time on 1 July 2009

- transition activities must be consistent with the design of the new Employment Services while honouring existing contractual obligations, and
- all eligible job seekers must be referred to new Providers contracted under the new Employment Services as efficiently and sensitively as possible.

These objectives and principles are fully reflected in the transition arrangements.

5.2. Preparing for transition – Planning, governance and stakeholder consultation

Comprehensive arrangements for transitioning to the new employment services have been the subject of detailed project management planning. This planning has been closely tied to the Department's work in development of the new model with a similar emphasis on consultation with and input from stakeholders.

The Department has followed project management methodologies to ensure timely preparations and readiness for the implementation of all aspects of the new services. This covers, for example, job seeker transition, stream services, work experience, the new job seeker compliance framework, contract management, remote and indigenous services, IT development and training resources, performance management, and evaluation. Key agencies such as Centrelink and the Department of Human Services have also been involved as members of relevant working groups on detailed implementation timetables. This approach has ensured that each element of implementation has been subject to thorough and detailed oversight for timely delivery, consistency, prompt identification of issues, consideration of lessons from the past, and full and detailed risk assessment and treatments.

As noted throughout this submission engagement with stakeholders has played a vital role. In transition planning, broad based consultations around the development of the new services (Chapter 2 refers) have been further augmented by a range of key consultative forums:

- the Information Technology Advisory Group has been the key forum for Provider engagement in the design of the future IT business tools. ITAG has also been supplemented by open access LiveMeets with a wide range of Provider staff
- the Expert Reference Group on Performance Management, chaired by Professor Stephen Sedgwick and including Provider representatives, advised on the replacement to star ratings following extensive criticism of past ratings approaches. Since the RFT, a further Performance Management Technical Reference Group of Provider representatives has provided advice on the operational implementation of future ratings systems, and
- the Charter of Contract Management Working Group, chaired by Professor Mark Considine and including Provider representatives, has provided advice on future oversight of quality job seeker servicing under the Quality Key Performance Indicator (KPI3) and has jointly shaped the Service Guarantee, Code of Practice, and the new Charter of Contract Management.

Since January, the Transition Reference Group (TRG) has been meeting fortnightly to provide advice on detailed transition arrangements. The TRG is comprised of:

- a Departmental Chairperson
- the National Employment Service Association (NESA)
- four Provider organisations nominated by the Department and by NESA to reflect a diverse range of views, and spanning larger/smaller, metropolitan/ remote, and small specialist organisations, and
- representatives from ACE, the National NEIS Association, Jobs Australia, and Green Corps, and an Indigenous employment service specialist provider.

Feedback and input from the TRG have been vital in informing the transition arrangements and approaches. The Group has also reviewed and provided advice on job seeker transition letters and has individually reviewed each operational Guideline under the new employment services Deed. Minutes of the Transition Reference Group are published on the DEEWR internet website, together with those of the other consultative forums.⁶

5.3. Transition – support for providers

As a result of these thorough and comprehensive preparations, transition is fully on track. Transition planning has matched or exceeded past approaches to ensure better and more timely support than in the past for providers and, in turn, job seekers. Some practical examples of this include:

- Providers have had three months between the tender announcements and the commencement of the new services in which to undertake their preparations
- the Department's close and ongoing work with all providers on their individual preparations, including specific assistance available through the AAF; and assistance for continuing Providers including a range of detailed job seeker caseload reports
- better access to services in the period leading up to transition. In past transitions, it has been a common practice to slow down or suspend job seeker access to services in the lead up to transition dates. In response to provider feedback, and with the interests of job seekers paramount, job seekers in this transition can commence in PSP or JPET or progress into Job Network Job Search Training or Customised Assistance services right up until the new services start
- on-time delivery of a fully redeveloped and thoroughly tested IT support system, including new and additional features requested by users. The current IT development is undergoing a comprehensive pre-release testing regime.
- release of the program Guidelines, developed and reviewed in consultation with Providers, commenced in early May. Training materials have also all been completed and released, and the Department is working with providers to track take up and completion of modules by their staff well ahead of services commencing. The third and final phase of training is scheduled from 1 June

6

<http://www.deewr.gov.au/Employment/JSA/Transition/Providers/Pages/TransitionReferenceGroup.aspx#meeting%20minutes>

- Providers in early May also received the first of detailed listings of transition job seekers. Whilst the new services do not start until 1 July, this means Providers can already be working with their job seekers to engage with them and prepare them for 1 July, and
- for vulnerable job seekers in the existing PSP and JPET programs, face to face meetings are also being arranged for any job seeker who is changing her or his Provider, so that the individual can be personally introduced to the Provider who will assist them in future. Arrangements are also in place with Centrelink for specialist Social Worker assistance if needed.

Internal training for the Department's contract management staff and Centrelink is also being undertaken including training in the new approaches to contract management in line with the Charter of Contract Management.

5.4. Job Seeker transition

For job seekers, the paramount consideration in transition is to connect smoothly to the Provider who will assist them in the new and enhanced services. The level of job seeker movement is expected to be lower than in comparable past transitions, such as at the time of introduction of the current Job Network contract in 2003.

Job seeker transition arrangements include allowing job seekers to remain with a current Provider where possible or to be offered an alternative Provider in their local area. More job seekers have the opportunity to be assisted by specialist services, and job seekers may choose a different Provider if they wish.

The transition of job seekers to Job Services Australia commenced successfully on 1 May 2009. Job seeker transition is being undertaken in ways that:

- ensure that all eligible job seekers are referred smoothly and efficiently to their future Job Services Australia Providers
- minimise disruption to employment services and activities for job seekers and employers; and
- provide an equitable allocation of job seekers to Job Services Australia Providers, based on their contracted market share.

The allocation rules used by the Department have also ensured that, where possible:

- job seekers have been allocated to their existing Provider where that Provider is continuing in the new arrangements
- job seekers requiring a specialist service have been matched to a specialist Provider if one is within the job seeker's ESA
- job seekers who are currently with an exiting provider are allocated to a new Provider who is within their local area or postcode, and
- job seekers located in a remote ESA have been matched to a Provider in their local community.

Current job seekers have been sent a letter and fact sheet, commencing 4 May 2009, informing them of their Providers and ability to select an alternate Provider. A hotline number has been included in the letter for job seekers to call if they have any concerns or questions about the new services. Examples of these letters and factsheets can be found on the DEEWR internet site.⁷

Job seekers currently in employment services will continue to be assisted through the current programs (for example, Job Network, PSP and JPET) until Job Services Australia commences. Job seekers who start an activity (such as Work for the Dole, NEIS, Green Corp or training) prior to 30 June 2009 will be able to complete the activity while also receiving help and assistance from their Job Services Australia Provider.

A number of reports have been developed by the Department, and will continue to be updated, to assist Job Services Australia Providers understand and manage the transition of job seekers and caseloads.

5.4.1 Referrals of new job seekers

Special arrangements have been applied to ensure that, in the transition period, newly commencing job seekers are, wherever possible, referred to organisations that can continue to assist them beyond 1 July 2009. Where this is not possible, job seekers are not denied servicing, but may access a non-continuing provider.

Full details of these arrangements are available in the transition information on the DEEWR internet website, as well as being promulgated in the Department's information sessions. In summary, from close of business 1 May 2009 Centrelink and Job Capacity Assessors will refer new job seekers to continuing Providers where possible. If a Job Services Australia Provider is not available and accessible to the job seeker, referrals may continue to exiting providers. Where a Job Services Australia Provider has taken over an exiting provider's caseload before 1 July 2009, they can continue to receive referrals. Referrals from Centrelink to exiting providers therefore ceased in the majority of circumstances at close of business 1 May 2009. These arrangements were the subject of consultations with the external TRG prior to finalisation.

These approaches were carefully designed to also honour the provisions of existing service contracts or deeds and advice was sought from the TRG before finalising the approach to be taken.

Job Services Australia Providers have been advised of their transition caseload and job seeker details, with regular updates as job seekers exit or enter the current services, so that they can continue to provide services with a view to ensuring that job seekers are receiving the services they need to assist them into jobs. Job Network, PSP and JPET providers will be able to commence job seekers up to 26 June 2009 and can continue to commence job seekers in Work for Dole and Green Corps up to 31 December 2009 and 30 September 2009 respectively.

5.4.2. Job seeker interests

The Department's local Account and Contract Managers continue to work closely with all Providers to ensure that all is in readiness for job seekers as they enter Job Services Australia from 1 July 2009. The consultation measures adopted have shown a clear commitment by the Department and Providers alike to work together to ensure the best results for job seekers.

⁷ [deewr.gov.au transition website](http://www.deewr.gov.au/transition) at <http://www.deewr.gov.au/Employment/JSA/Transition/Pages/JobSeekerLetters.aspx>

Attachment

Attachment A : Table of Key Dates

Date	Activity
<i>Pre – Tender submission stage</i>	
January 2008	Minister for Employment Participation sought suggestions for improvement to assistance to the unemployed
May 2008	Discussion Paper <i>The Future of Employment Services in Australia</i> issued
19 May 2008	Public consultations on Discussion Paper commence
12 June 2008	Closing date for submissions on the Discussion Paper
1 August 2008	<i>Exposure Draft of Request for Tender for Employment Services 2009-12</i> released
6 August 2008	Public consultations on Exposure draft commence
29 August 2008	Closing date for submissions on the Exposure Draft
<i>Tender submission stage</i>	
27 September 2008	<i>Request for Tender for Employment Services 2009-12</i> released
3 October 2008	RFT Information sessions commence
7.00pm, 14 November 2008	Closing date and time for tender submissions
<i>Tender Evaluation and Contracting Stage</i>	
15 November 2008	Tender Evaluation commenced
27 January 2009	Business Allocation commenced
13 February 2009	Final decision by delegate – Innovation Fund Panel
4 February 2009	Final decision by delegate – Employer Broker Panel
3 March 2009	Announcement by Minister– Innovation Fund Panel
11 March 2009	Announcement by Minister – Employer Broker Panel
16 March 2009	Preferred Tenderer advice – Stream Services
31 March 2009	Final decision by delegate on all services other than Innovation Fund Panel and Employer Broker Panel
1 April 2009	Minister advised of final outcomes
2 April 2009	Final Outcome advice to all tenderers
9 April 2009	Deeds distributed to successful tenderers
<i>Debriefing Stage</i>	
1 May 2009	Debriefing of tenderers commenced
<i>Transition Stage</i>	
14 January 2009	Transition Reference Group commences
27 February 2009	Transition website released
1 April 2009	Commencement of formal Transition period based on announcement of tender outcomes
21 April 2009	Transition Guidelines released (Process for Concluding 2006-2009 Employment Services Contracts – Guideline, Process for Commencing 2009-2012 Employment Services Deed – Guideline

	and Transition Reference Document for Providers)
1 May 2009	Cease new referrals to exiting Job Network, PSP and JPET providers
2-3 May 2009	Job seekers allocated to Job Services Australia Providers
4 May 2009	Commence sending letters to transitioning job seekers
4 May 2009	Weekly reports commence (Allocation Report and Transitioning Job Seeker report)
15 June 2009	Letters to Job Search Support Only job seekers sent
15 June 2009	Job Services Australia Providers given Caseload Report and On-line diary available to book appointments with job seekers.
27-28 June 2009	All job seekers transitioned into Job Services Australia
1 July 2009	Job Services Australia commences