

**Submission to the Education,
Employment and Workplace Education
Committee.**

**Inquiry into the conduct of the 2009
tendering process by the Department
of Education, Employment and
Workplace Relations
to award Employment Services
contracts.**

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Private Individual Submission

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Introduction

Having participated in all of the Employment Services Tenders since the inception of competitive tendering in this sector (5 Major Tendering Exercises), it would be fair to say that the outcome of Employment Services Tender 2009-2012, has been amongst the most surprising of all. The other being the Tender conducted in 1999/2000 for the 2000-2003 Employment Services Contract Period, which saw Employment National and Drake Jobseek, the two largest providers, exit the Job Network.

This submission draws on my own personal observations of the developments in Employment Services, over the past 25 years through the demise of the Commonwealth Employment Service, the introduction of Contracted Case Management through Working Nation, to Job Network (JN) in its four iterations, Job Network 1, (Intensive Assistance). Job Network 2, (Active Participation Model), Job Network 3, (Work First – Welfare to Work), JN 3 (extension) and finally the establishment of Job Services Australia.

Policy Background

The policy parameters surrounding the 2009-2012 Employment Services Tender, introduced themes such as -

- Social inclusion
- Human Capacity Building
- Partnerships and collaborations
- Case Management
- Integrated service provision
- Holistic supports
- Focus on the most disadvantage
- Skill building and addressing skills in demand

The language in the Request for Tender (RFT) was very different to previous tenders and there was a sense that the service would move to a more locally focussed approach, in the spirit of maximising and building local community capacity. In the lead up to the release of the Exposure Draft, the subsequent release of the final RFT and throughout the Tender Consultations there seemed to be an indication that the Government was keen to include locally based, specialist, smaller providers in the mix of service provision, particularly SAAP services and Indigenous services. These messages seemed to be

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conveyed to various Peak Bodies, as there was definitely encouragement to Supported Accommodation Assistance Program, (SAAP) providers and Indigenous services to submit a tender, or enter into partnership arrangements.

Furthermore, there was a strong indication that all providers should develop collaborative approaches or enter into sub contracting arrangements with specialist providers to ensure that a comprehensive range of integrated supports could be provided to meet the needs of vulnerable people with complex needs. The aim being to create pathways for disadvantaged job seekers, who might find it difficult to connect with the services which most meet their needs, in keeping with the Social Inclusion concept of 'One Door – No Wrong Door'.

The published tender results do not highlight the extent of partnership arrangements or sub contracting relationships which exist in the new services, so it is difficult to see if this outcome has been achieved.

Design of the Tender

The Employment Services tender process is extremely prescriptive and quite complex. The RFT itself is over 390 pages; prospective tenders must register on the Austender web site in order to receive any updates to the RFT. Any alteration to the tender process or relevant material is posted as an Addendum and an email is sent to all those who register, advising them to log into Austender to download the addendum. Tenderers were also required to download specific IT software, the All Purpose Evaluation Tool (APET) in order to complete the tender which was to be lodged electronically. Furthermore, prospective tenderers were advised to continually check the DEEWR web site to stay apprised of any Frequently Asked Questions (FAQ) that were updated daily.

There is also an expectation that prospective tenderers should attend a half day information session which the Department of Education, Employment and Workplace Relations facilitates when the RFT is released.

Whilst there were only Four (4) Specific Criterion that tenderers had to respond to, there were in fact over 20 separate questions asked within the Criteria. The response needed to be typed into a specific Template which noted the character limit for each Criterion and prevented the written response exceeding this character limit.

For organisations who have **not** been involved in a DEEWR process in the past, there is an extremely steep learning curve to understand the fundamental tender requirements. It is a very difficult process and many of the smaller community based providers now feel that they were given 'mixed messages,' i.e. they were encouraged to tender but believe they had limited

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opportunity for success, given their lack of familiarity with the process and the limited resources at their disposal to develop a competitive Tender Response.

Cost of Tendering

Many organisations form a Tender Team several months in advance of the release of the RFT, the Team often comprising 5 - 10 staff, undertake labour market research and gather information for the tender. The team usually works on the tender right up until the lodgement date. The cost of putting the tender together is quite significant for all organisations, at a minimum the cost would be at least \$10,000 in staff time for smaller tenders ranging to substantial amounts for larger organisations.

Smaller organisations generally operate on very tight budgets and have limited financial capacity and resource capability to invest in the tendering process, therefore they would generally not tender unless they can realise a return on this investment, by securing a contract. Consequently, those who tendered unsuccessfully, feel that the exercise has been a waste of valuable resources which could have been directed into service provision.

In summary, the whole tendering process is very complicated, resource intensive and all consuming for the organisations involved. In itself it disrupts the rhythm of organisations and most would say, has an adverse impact on productivity.

Tender Assessment

Clearly the Department employed a scoring system which presumably was in keeping with the weightings articulated in the tender, i.e.

Criterion 1 – 30%

Criterion 2 – 20%

Criterion 3 – 40%

Criterion 4 – 10%

The broad stages involved in the tender evaluation process are outlined on page 91 of the RFT. The actual scoring system which underpins the assessment is not widely known to providers and therefore not perceived as transparent. There is significant confusion as to why some tender bids by the same provider were successful in one Employment Services Area, (ESA) and yet similar a tender bid was unsuccessful in others, even in instances where previous performance rated higher in the ESA where the bid was unsuccessful.

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Confirmation and/or Clarification of Tender Claims

Some organisations felt that the tender process should have been more rigorous in following up claims that were presented in the written tenders, particularly when tenderers were bidding in new ESA's or were new to the sector. The reliance on a 'written tender submission' and limited follow up to explore issues such as partnership capability and local connections, meant that the veracity of written claims within a tender was not seen to be thoroughly examined.

Value for Money

It would appear that the value for money assessment criterion related to the coverage or number of sites that a tenderer, nominated within a given ESA against their bid range for market share – i.e. a tenderer who stated that they would open 6 sites in an ESA with a minimum bid range of 40% would have ranked higher than a tenderer who stated that they would open 1 site with the a slightly lesser or even the same bid range.

This approach encourages a greater number of 'street front' sites, as opposed to a model which might present a single central location which provides access to a range of services.

Clearly operating more sites places a greater financial burden on organisations and stretches its resources. This may create viability concerns particularly if the anticipated client flow does not eventuate in these locations.

Specialist and Generalist Tenders

Whilst there was encouragement for specialist providers to submit tender bids focussing on their significant expertise with specific client groups, e.g. homeless people, Indigenous people, youth at risk etc. it was made clear in the RFT, that these agencies would also be required to service job seekers from all groups, should the job seeker choose that particular provider.

Most specialist agencies understood this but they were confident that their positioning in the sector would enable them to primarily attract the specialist target group. Bearing this in mind, these tender bids needed to consider the financial implications that smaller specialist case loads would place on their services and as a consequence needed to be prudent in nominating the ESA coverage. Most bids focussed on the primary geographic area of need in that ESA – i.e. their bids covered the locations where they knew most of the specialist client group would be concentrated.

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Notwithstanding this, the tender assessment process, meant that specialist providers were assessed against the generalist bids in that particular ESA. This could be perceived as placing the specialist provider at a disadvantage as they were assessed against generalist providers, whose tender claims might appear stronger across broader stream services and who would also have the ability to offer additional sites which the Department saw as greater 'value for money'.

Given the policy focus on vulnerable client groups and homeless people in particular, following the release of the Homeless White Paper, The Road Home, it is surprising that there are relatively few specialist services in the area of homelessness, (a total of 5 Homeless Specialist providers). I am not aware of the number of unsuccessful tender bids submitted by SAAP providers, it may be that the SAAP providers felt that they lacked the capacity to submit a tender and therefore stayed out of the process.

There have been several research papers and much commentary from various welfare organisations and academics highlighting the difficulties experienced by homeless people in navigating mainstream employment services. Given that there are so few specialist homeless providers participating in Job Services Australia, it is critical that employment service providers and SAAP providers establish close linkages to ensure that homeless people are provided with access to appropriate job training and placement services. It is noted that the RFT in 2.2.1 articulates the desire to formally foster these relationships.

Announcement of Tender Results

The Department chose to notify the preferred tenderers by email and there was no notification provided to unsuccessful tenderers at that stage. Unfortunately, rumour and speculation spread through the employment services sector and providers were left in a limbo for several days, whilst Departmental officials negotiated with preferred providers. Many existing providers felt that the process was disrespectful and they did not know what messages to convey to their staff, albeit that staff were hearing various messages through the 'grapevine'. Consequently there was considerable disquiet throughout the sector. It has also been noted that there were fundamental differences between the first notification of success to some providers and the second notification and this caused great angst and consternation in agencies.

Tender Debriefing Sessions

Some of the agencies I have spoken to stated that their feedback session was probably better than any they have attended in the past, however most were

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disappointed that feedback could not be provided in writing, even in instances where clearly the Tender Debriefing Team had substantial written notes that they read from - these were not provided to the tenderer.

During the feedback sessions, most tenderers were advised of the highly competitive nature of the tendering exercise with 269 bids being received. Most of unsuccessful tenderers were advised that the other tender bids in that ESA were of a higher quality, however it is very difficult to gauge what this means in this in the absence of concrete feedback. There is a sense that the assessment is a fairly subjective process; providers are not informed of how conclusions about their tenders were formed or in fact how they could have strengthened their tenders.

Many providers were surprised that they were successful in some ESA's where their previous performance was mediocre and yet they were unsuccessful in areas where their performance was very high e.g. 5 star rating. Most of these providers would argue that the standard or quality of their tender was consistent across these ESA's therefore they are quite confused over the final decision. The feedback session did not clarify these issues for them.

Timing of the Tender Outcome

It is of great concern that at a time when Australia, needs a competent, stable, expert employment service, where staff can inspire hope and confidence in job seekers, we have a sector that is inwardly focussed on organisational growth or downsizing issues.

It is estimated that there will be a 50% turnover in service providers in ESA's across the country. Previous experience has demonstrated that there is significant productivity loss when contracts change and new providers are staffing up and gearing their services up gradually to minimise the financial implications of employing too many staff in unknown labour markets.

The Commonwealth Employment Service (CES) was in existence during the last major recession (1990-91) which Australia experienced and was pivotal in the implementation of many of the labour market stimulus measures which came out of Working Nation. The CES was a well known entity in Australian suburbs and towns across Australia, unemployed people and employers knew where to go for labour market assistance.

In this recession, employment services are currently provided by Job Network providers and from the 1st July 2009, will be delivered by the successful tenderers who have won tenders to operate under the banner of Job Services Australia. Job Services Australia includes a range of providers, with various branding and approaches to service delivery and are not easily identifiable, (the CES logo was amongst one of the most well known brands of its time).

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Job seekers who are eligible for Centrelink payments will be given information about providers by Centrelink. However those recently retrenched people, who are not eligible to receive social security payments are unlikely to know where to go for support and assistance. Furthermore at time when they need reassurance and some general advice, they unlikely to get this universally, as provider contracts and therefore services are driven by financial and performance incentives, linked to eligible client groups.

DEEWR as a Purchaser of Services

When outsourcing of employment case management services first began in 1995, the Commonwealth Employment Service was the primary service delivery vehicle for mainstream employment services and formed the major part of the Department of Employment Education, Training and Youth Affairs (DEETYA) and as such was able to inform the development of policy and program responses from a practical 'evidence base' from all over Australia.

DEEWR is now the purchaser of services and needs to rely on advice from contracted providers to understand the practical issues impacting on the delivery of services. Given the range of service providers it is often difficult to gain a consistent view of the issues impacting on operations as they vary greatly across the nation and between providers.

Social Inclusion

The competitive model of employment services makes it very difficult to develop social inclusion. Community Organisations which are locally based or those which have existed in a particular location for significant periods help to build community capacity. The competitive tendering model which can effectively mean a reshuffle of providers ever three years or so, may result in organisations closing up shop in local communities, to be replaced by perhaps another temporary institution. Not only is this destabilising for the individual providers and their staff, it impacts adversely on local community development. It is very difficult to develop the trusting relationships which facilitate social inclusion in an environment where providers risk losing their contract and moving out of town.

Employment Service Model Sustainability

The terms of reference for this Senate Inquiry has asked for comment on the actual 'Employment Services Model, including whether it is sustainable in a climate of low employment growth and rising unemployment, and whether there is capacity to revise it in the face of changed economic circumstances'.

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This is a particularly complex issue and in a competitive tendering environment, it would be difficult and perhaps unethical to change the operating environment mid way through the contract process. There are possibly providers who chose not to tender based on the shape of the Model and the cash flow scenarios, therefore to move to a different approach risks compromising the integrity of a competitive tendering process.

These issues really raise the question of whether competitive tendering is the best approach in this area of human services.

Stability in Employment Services

It is very difficult to guarantee stability in employment services in a market driven, highly competitive model. This latest tender demonstrates the unpredictability of competitive tendering with highly respected organisations which have operated successfully in some ESA's for over 15 years as providers of employment training and placement services through various labour market programs, not receiving contract offers. The current process of contracting employment services is enormously disruptive.

- Firstly and most importantly to unemployed people who need and should have access to a public employment service which provides them with timely advice on the labour market and access to job training and placement.
- Secondly to providers and their staff, who have the responsibility of closing down their operations, supporting staff through the process of retrenchment and providing advice to job seekers and employers of the transition arrangements.
- Thirdly to local communities who rely on business and community infrastructure and institutions to help to build the social capital in their area.
- Finally the impact of lost productivity to government and tax payer

The financial cost of the tender process, the loss of experienced people from employment services each time there is a reshuffle and the cost of lost productivity has a deleterious impact on employment service delivery in Australia. We need a system that works for all stakeholders and there are several options in designing a model that minimises disruption and maximises service quality for job seekers and employers.

The following provides a brief outline of three options which might be considered in developing a system which provides for greater stability in the employment services system and delivers greater certainty for job seekers, employers and providers.

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1. Government Public Provider

The Working Nation approach included the CES as the public employment service which guaranteed universal access to employment services across Australia, not only for unemployed people but also for those employed people whose jobs were at risk and those who were seeking an 'improved' position. Specialist case management services were contracted from private and community service organisations, to provide additional support for long term unemployed and disadvantaged job seekers. This system combined the expertise of specialist agencies and the Government operated public employment services system, which provided direct service to frictionally unemployed people as well as being a central focal point within local communities for job seekers and employers. The Government provider, also facilitated the gathering of local labour market data and enabled direct contracting out of specific labour market programs.

This model is similar to the approach currently operating in the UK by the Department of Work and Pensions, with the Job Centre Plus operating as the Government provider and in New Zealand through the Department of Work and Income NZ and its chain of service centres.

2. Licensing System

The Productivity Commission Report (2002), recommended that a licensing system could replace the tendering approach,

'The Commission recommends that, after Employment Services Contract 3, competitive tendering in the Job Network be replaced by a licensing system that

- ultimately permits free entry at any time to any supplier that meets DEWR's accreditation standards; and
- includes automatic licence renewal, subject to a requirement that providers achieve a certain performance standard.¹

The licence system is one which is used in contracting other human service provision, e.g. Aged care, Child Care. If this approach were to be adopted, rigorous accreditation and quality assurance standards would need to be developed and strictly applied to all providers.

¹The Productivity Commission, (2002)/ Independent Review of Job Network, Report Number 21', Commonwealth of Australia, Canberra p XLVII

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3. Benchmark services

A benchmarking system could be applied to Job Services Australia, which included a range of metrics which assesses the performance of individual providers. The system should measure quantitative and qualitative outcomes and could be used to guarantee roll over of contracts to highly performing providers.

Conclusion

If we want to ensure stability in employment services we need to rethink the approach to competitive tendering. The options mentioned above provide a few examples of how the system could be adapted, there are of course many other combinations which could be explored.

An analysis of how effective the current system operates will help to inform the process. The Productivity Commission recommended that

- ‘consideration be given to establishing an independent panel of researchers to advise on the data needed to evaluate the Job Network programs. The views and recommendations of such a panel should be made public’ and that
- ‘all de-confidentialised data on Job Network programs be made available for independent scrutiny by other researchers as soon as is practicable after they are produced.’²

These recommendations are still valid, it is imperative that there is scope for independent analysis to ensure transparency and give the public confidence in Australia’s employment services system.

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² Ibid p XLII