



Commonwealth of Australia

Standard Form Contract

Parties

Name **Commonwealth of Australia** as represented by the Department of Employment
ABN: 63 578 775 294

Address 50 Marcus Clarke Street
CANBERRA ACT 2601

Contract name **Commonwealth**

Name **Jaguar Consulting Pty Ltd**
ABN: 56 089 615 636
ACN: 089 615 636

Address PO Box 522
MALVERN VIC 3144

Contract name **Supplier**

A. Background

- A.1** The Commonwealth requires the provision of the Goods and/or Services.
- A.2** The Supplier has fully informed itself on all aspects of the Commonwealth's requirements and has:
- (i) submitted an offer; and
 - (ii) represented that it has the requisite skills and experience to meet those requirements.
- A.3** The Commonwealth has agreed to engage the Supplier, and the Supplier has agreed to be engaged, to provide the Goods and/or Services on the terms and conditions of this Contract.

B. This Contract

- B.1. Goods and/or Services:** The Supplier agrees to provide the Goods and/or Services to the Commonwealth and the Commonwealth agrees to purchase the Goods and/or Services in accordance with the terms of this Contract.
- B.2. Contract Documents:** This Contract comprises:
- (a) the Special Conditions (if any);
 - (b) this document including the Statement of Requirement;
 - (c) The *Commonwealth General Conditions of Contract* available at <https://www.tenders.gov.au/?event=public.document.list> in the form they appeared at 9:00 am (local Canberra time) on the date of this Contract; and
 - (d) *Annex 1 – Supplier's Offer* (if any).

If there is any ambiguity or inconsistency between the documents comprising the Contract, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

- B.3. Special Conditions:** The Supplier must comply with the Special Conditions (if any).

B.4. Definitions: Some terms are given special meanings in clause 2.38 of the *Commonwealth General Conditions of Contract*. Where a term is defined in the *Commonwealth General Conditions of Contract*, that term has the same meaning in each of the documents comprising this Contract, unless when read in context, it appears that a different meaning is intended.

Statement of Requirement

1.1 Term

The Parties have entered into this Contract on 19 November 2013 and the Contract will terminate on acceptance of the final report.

1.2 The Goods and/or Services

In accordance with *RFO Schedule 1 – Statement of Requirement* the Commonwealth requires the Supplier to conduct a Review to assess the operation of the Road Safety Remuneration System and advise Government on whether this system represents an effective and appropriate means of addressing safety concerns in the road transport industry. The Terms of Reference for the Review are provided at *Annex 2*.

The Supplier is to deliver the Goods and/or Services as set out in *RFO Schedule 2 – Offer*, included at *Annex 1*.

1.3 Timing and delivery date(s)

Goods and/or Services are to be delivered as specified in the following table:

Deliverable	Date
Delivery of Draft Report	February 2014
Delivery of Final Report	March 2014

1.4 Delivery location and instructions

Delivery Address and Instructions for Goods and/or Services	<p>The Goods and/or Services are to be carried out in accordance with <i>RFO Schedule 2 – Offer</i>, included at <i>Annex 1</i>.</p> <p>The Deliverables set out at clause 1.3 are to be provided in electronic format to the Commonwealth’s Contract Manager specified at clause 1.9.</p>
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1.5 Specified Personnel

The Specified Personnel are:

Name	Position	Role
Rex Deighton-Smith	Director	Responsible for delivery of all required project services

1.6 Security Requirements

When attending a Department of Employment site the Supplier is required to:

- be accompanied at all times, including from the building at the end of the visit,
- sign a visitors register at the security guard post and be issued a visitor pass, which is valid only on the day of issue;
- wear and clearly display the visitors pass at all times, and
- return the visitor pass to the Departmental employee who accompanies them on site.

1.7 Contract Price and payment

The Contract Price is as set out in *RFO Schedule 2 – Offer*, included at *Annex 1*, which is payable by the Commonwealth in accordance with the Contract.

1.8 Intellectual Property

The Supplier grants the Commonwealth a non-exclusive, irrevocable, perpetual, worldwide, fee-free licence (including a right to sublicense) to use, modify, adapt and publish the Goods and/or Services and any Material and any adaptation of the Goods and/or Services or any Material for any purpose other than commercial exploitation, to the extent that Material embodies any of the Supplier's Intellectual Property Rights.

The Supplier warrants that it owns all Intellectual Property Rights necessary to grant this licence, provide the Goods and/or Services and Material to the Commonwealth and to allow the Commonwealth to use the Goods and/or Services for their usual purpose and in the manner contemplated by the Statement of Requirement.

The Supplier warrants that the provision of the Goods and/or Services in accordance with the Contract will not infringe any third party's Intellectual Property Rights.

1.9 Contract Managers and Addresses for Notices

The Commonwealth's Contract Manager:

Name/position title: The person occupying the position of Branch Manager, Framework Policy Branch, currently Mr Peter Cully.

Postal Address: Location Code: C50MA6

GPO Box 9880

CANBERRA ACT 2601

Telephone: (02) 6121 7237

Mobile: [REDACTED]

Email Address: peter.cully@deewr.gov.au

The Supplier's Contract Manager:

Name/position title: The person occupying the position of Director, currently Mr Rex Deighton-Smith.

Postal Address: [REDACTED]
[REDACTED]

Telephone: (03) 9500 0212

Mobile: [REDACTED]

Email Address: rex@jaguarconsulting.com.au / [REDACTED]

Both Contract Managers will be responsible for the general liaison and accepting and issuing any written notices under this Contract.

Special Conditions of Contract

A.4 Work health and safety

- A4.1 In recognition of the Commonwealth's responsibilities under the *Work Health and Safety Act 2011 (Cth)*, the Supplier agrees that in addition to its obligations under clause 2.18 of the *Commonwealth General Conditions of Contract*, it will ensure that the Goods and/or Services are provided in a safe manner, including by;
- (a) complying with, and ensuring all Specified Personnel comply with, all WHS legislation and codes of practice relating to work health and safety;
 - (b) when providing the Goods and/or Services at Commonwealth premises, informing itself, and ensuring all Specified Personnel inform themselves, of the Commonwealth's work health and safety policies and procedures that the Commonwealth provides to the Supplier and are relevant to the Goods and/or Services, including the Department of Employment Work Health and Safety Policy (as amended from time to time);
 - (c) when providing the Goods and/or Services on the Supplier's premises, complying with, and ensuring the Supplier's personnel comply with, all the Supplier's applicable instructions, directions, policies and procedures relating to work health and safety; and
 - (d) where the health and safety of any person (including the Specified Personnel) may be affected by the provision of the Goods and/or Services, consulting, cooperating and coordinating with the Commonwealth in relation to health and safety issues.
- A4.2 For the purposes of this clause, the term 'WHS legislation' means the *Work Health and Safety Act 2011 (Cth)*, any regulations made under that act and any 'corresponding WHS law' within the meaning of section 4 of the WHS Act and Regulation 6A of the Work Health and Safety Regulations 2011.

Signing Page

EXECUTED as an Agreement

Signed for and on behalf of the
Commonwealth of Australia, as
represented by the Department of
Employment ABN: 63 578 775 294, by its
duly authorised delegate in the presence of

Signature of witness



Signature of delegate



Name of witness (*print*)

Name of delegate (*print*)

Position of delegate (*print*)

ON: [*insert date*]

Executed by Jaguar Consulting Pty Ltd
ACN: **089 615 636** in accordance with
Section 127 of the *Corporations Act 2001*

Name of director (*print*)



Signature of director who state they are the sole director of
Jaguar Consulting Pty Ltd

ON: [*insert date*]

Annex 1 – Supplier’s Offer

Tenderer’s Details

Full legal name and postal address:

Jaguar Consulting Pty Ltd

PO Box 522

MALVERN VIC 3144

ACN/ARBN: 089 615 636

ABN: 56 089 615 636

Contact Officer

For all matters relating to this RFO, the Tenderer’s Contact Officer will be:

Name/position title: Rex Deighton-Smith, Director.

Telephone: (03) 9500 0212

Mobile: [REDACTED]

Email: rex@jaguarconsulting.com.au / [REDACTED]

Contract Manager

Name/position title: Rex Deighton-Smith, Director.

Telephone: (03) 9500 0212

Mobile: [REDACTED]

Email: rex@jaguarconsulting.com.au / [REDACTED]

Address for Notices:

Name/position title: Rex Deighton-Smith, Director

Postal Address: [REDACTED]

Email Address: rex@jaguarconsulting.com.au / [REDACTED]

Tenderer's Offer

The Goods and/or Services

The following sets out, in broad terms, our proposed approach to the task.

Empirical Evidence and Theoretical Discussion

A key consideration in approaching the current task is the fact that the Road Safety Remuneration Tribunal (RSRT) has been in operation only since 1 July 2012. This means that there will, necessarily, be only limited opportunity to conduct empirical analysis of the practical impact of the Tribunal and its governing legislation. We note that the Tribunal website indicates that, while a core function of the Tribunal is to make Road Safety Remuneration Orders, no final order has yet been made. The fact that no such order has yet come into effect means that it will not be possible to obtain estimates of compliance costs from industry that are based on practical experience, much less any useful information on any potential second round effects (i.e. impact of such orders on industry structure, competitiveness, and so on)¹.

That said, given that a draft remuneration order has been the subject of a significant public consultation process, we propose to consult with the industry to obtain their views of the prospective impacts of the draft order. This will include both the administration costs of complying with the process requirements set out in the draft order and the expected impact, if any, on future remuneration rates of the draft orders single statement directly addressing this issue that 'reasonable' remuneration should be paid.

We will also review the written submissions received by the Tribunal in response to the draft order to clarify the views of other parties. For example, the submission of the Victorian Department of Treasury and Finance highlights a number of issues related to the potential interaction of the order with the existing Victorian regulatory arrangements in this area. Other empirical data that will be sought includes information on the budgetary cost of Tribunal to date, as well as any available estimates of its future budgetary costs.

Given the necessarily limited availability of empirical data, it is particularly important that the review should also include an adequate theoretical analysis of the relevant issues and that this should take full account of the range of other relevant Federal, state and territory legislation.

We note, in this context, that the RFQ states that the review must be guided by the principles of:

- eliminating regulatory duplication; and
- ensuring that regulations and policies for improving safety performance in the road transport industry are based on credible evidence.

Eliminating Regulatory Duplication

The question of regulatory duplication will be assessed in two distinct areas. Firstly, as our previous paper highlighted, three state governments had already, as of 2011, adopted legislation which addressed the issue of rates paid to owner drivers and related contractual issues. As noted in a recent submission to the Tribunal by the Victorian Department of Treasury and Finance, there appears to be significant scope for overlap/duplication between such state regulatory arrangements and the work of the Tribunal. We will update the discussion of relevant state/territory legislation and its implementation in practice contained in our previous paper and assess this material against the Federal legislation, and the work (and work program) of the Tribunal. This will provide the basis for a discussion of the extent of regulatory duplication in this area and alternative means of reducing or eliminating it.

Second, given the mechanism by which the 'safe rates' approach is intended to enhance road safety, a range of other Federal, state and territory legislation relating to driving hours, fatigue management and other related issues also, at least arguably, duplicates to some extent the *Road Safety Remuneration Act 2012*. We will document the extent of this overlap and duplication and provide an analysis of the relative merits of the different legislative approaches.

¹ Similarly, the relevant website pages indicate that no decisions, statements or orders have been made to date, other than those relating to the Tribunal's own work program. See: <http://www.rsrt.gov.au/index.cfm/decisions-statements-orders/all-decisions-statements-orders/>

A significant principle of good regulation to be addressed in this regard is that regulation that directly addresses the identified policy objectives should generally be preferred to that which operates indirectly. As noted in our previous report, policy initiatives aimed at improving the remuneration of owner drivers and their bargaining power², such as the Victorian *Owner Drivers And Forestry Contractors Act 2005* have, in most cases, been put forward primarily as a means of addressing equity issues, rather than as road safety initiatives. Our report will address this issue and its significance for the assessment of the *Road Safety Remuneration Act 2012*.

Evidence-Based Policy-Making

Our previous paper incorporated a review of the research literature on the issue of correlations between rates paid in the road transport industry and safety performance. This review concluded that the research literature was limited, and related largely to employee drivers rather than owner drivers and that the conclusions reached differed significantly. However, the three most recent papers reviewed all pointed to some positive correlation between rates paid and safety performance.

We will update this previous review of the research literature to ensure that it incorporates any relevant research published over the past three years. This will provide the basis for a revised assessment of the strength of the evidence linking these two variables and the likely size of any such effect. This, in turn, will provide a basis for assessing the potential impact of the Tribunal's operations on road safety. However, in addition to establishing whether there is good evidence for a link between remuneration levels and safety performance, task requires estimation of the likely impact of the Tribunal's operation on actual remuneration levels. As noted above, we anticipate seeking industry views on the potential impact of the draft remuneration order published by the Tribunal. In addition, we expect to seek the Tribunal's views on this issue, both in relation to the current draft remuneration order and in terms of any relevant additional initiatives which are incorporated in the Tribunal's work program.

In addition, sound policy analysis is necessarily conducted on a comparative basis. Therefore, any conclusions regarding the likely impact of the Tribunal's operations on road safety performance will be discussed in the context of a comparison of this impact with that of other government initiatives (both regulatory and non-regulatory) which have sought to address this issue. This comparative analysis may potentially also include other prospective policy initiatives should any such be identified during the research.

Consultation

Given the budget and time constraints in respect of this project, we propose to conduct most consultations by telephone and email. However, we anticipate conducting direct consultation with the Tribunal itself.

We will work with the Department's project managers to identify an agreed group of stakeholders with whom, at a minimum, consultation will be undertaken. The choice of groups to be consulted will be based, in part, on the response to the Department's initial request for submissions to the review and the need to follow up issues and information of particular importance that may be identified in the written submissions.

We also anticipate working with the department to actively solicit submissions from some key stakeholders. In particular, inputs from those states that have already adopted legislation with similar impacts (i.e. Western Australia, Victoria and New South Wales) would appear to be particularly relevant.

Other Process Issues

Following project initiation discussions with the Department, we propose to provide an annotated outline of our report to the department for comment. This will ensure that the report's scope and focus are appropriate to address the stated scope of work. As requested in the RFQ documentation, we will provide a draft report during February 2014. Following receipt of feedback from the Department, we will apply a final report during March 2014.

Proven Capacity

Statement of Skills and Experience

Jaguar Consulting was founded by Mr Rex Deighton-Smith in December 1999. It is a provider of specialist consultancy services in the areas of public policy and governance, regulatory reform, regulatory impact

² e.g. through the creation of disclosure requirements.

Review of the Road Safety Remuneration System

assessment (RIA) and competition policy. Clients include the OECD, the World Bank, a range of Australian State and Federal Government departments and agencies, industry associations and private entities. Further information on the experience and expertise of the company are available at www.jaguarconsulting.com.au.

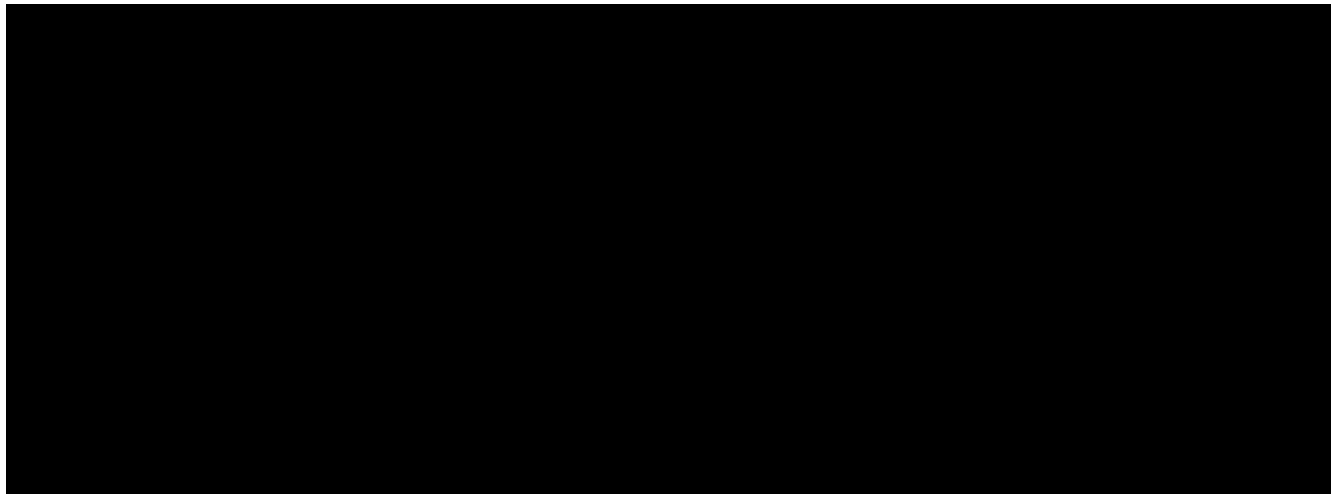
This quotation proposes that the required work would be completed in its entirety by Mr Deighton-Smith. Mr Deighton-Smith has acted as either the sole or principal consultant in respect of all of the contracts completed by Jaguar Consulting during this time. As such, his expertise and experience covers all of the areas highlighted above as constituting the company's scope of practice.

Over the past 14 years, Mr Deighton-Smith has been contracted to provide extensive policy analysis and policy development services in relation all transport modes by several clients, including the Victorian Department of Transport, the National Transport Commission, the (then) Federal Department of Education, Employment and Workplace Relations (DEEWR) and the then Victorian Department of Industry and Regional Development.

Of particular relevance to the current project is the fact that Mr Deighton-Smith provided a major report on the safe rates issue to DEEWR in 2011, prior to the establishment of the Road Safety Remuneration Tribunal. This report included a review of the literature on the relationship between remuneration and safety performance in the heavy vehicle sector, discussion of the range of other legislation relevant to this issue and an economic analysis of the likely impact of establishing powers to regulate remuneration rates in the sector. As a result of the completion of this project, Mr Deighton-Smith has a detailed understanding of the analytical issues that are at the core of the current project and an appreciation of the policy context leading to the establishment of the Tribunal and its current review. Moreover, the analysis contained in that report can be expected to provide an important input to the current project.

Also highly relevant is the fact that Mr Deighton-Smith completed a Regulatory Impact Statement (RIS) in relation to the Victorian Owner Drivers and Forestry Contractors Regulations 2006. These regulations seek to address a similar range of issues to those that led to the establishment of the Tribunal and are focused on information provision (including publication of guideline rates) and on preventing the use of unfair contract terms. Mr Deighton-Smith has also conducted a range of prior work in related areas for the National Transport Commission, completing the RIS for the NTC's model Road Transport (Compliance and Enforcement) Bill as well as further work on driving hours regulations.

Specified Personnel



Subcontractors

Not applicable

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Pricing

Prices for Services

Task	Milestone Deliverable (if applicable)	Milestone Delivery Date (if applicable)	Payment Schedule (\$A, duty paid, GST exclusive)	Payment Schedule (\$A GST component)	Payment Schedule (\$A, duty paid, GST inclusive)
Report on the Review of the Road Safety Remuneration System	Delivery of Draft Report	February 2014	\$16,200	\$1,620	\$17,820
	Completion of Review	March 2014	\$10,800	\$1,080	\$11,880
				Total GST exclusive	\$A27,000
				Total GST	\$A2,700
				Total GST inclusive	\$A29,700

Facilities and Assistance

We require the following facilities and assistance:

- The facilities and assistance offered by the Commonwealth in *RFO Schedule 1 – Statement of Requirement*.
- Reimbursement of any applicable travel costs, provided that these are agreed in advance with the Department.

Additional Information

Please see CV for Mr Deighton-Smith.

Administrative Information

Confidentiality of Tenderer Information

Provisions considered necessary to be confidential	Reasons for requesting confidentiality
Nil	Not applicable

Annex 2 – Terms of Reference

Review of the Road Safety Remuneration System: Terms of Reference

The purpose of the Review

The purpose of the Review is to assess the operation of the *Road Safety Remuneration Act 2012* and the Road Safety Remuneration Tribunal (together the “Road Safety Remuneration System”) and advise Government on whether this system represents an effective and appropriate means of addressing safety concerns in the road transport industry.

The scope of work

The Review will:

- assess the regulatory and economic burden of the Road Safety Remuneration System on participants in the road transport industry and the Australian economy generally;
- examine whether other Commonwealth, state and territory regulations and initiatives provide a more appropriate means of improving safety outcomes in the road transport industry;
- examine any available evidence about the impacts of the Road Safety Remuneration System on improving road safety (e.g. accident data);
- assess the operation and conduct of the Tribunal and the extent to which it has achieved its aim and objectives;
- consult relevant stakeholders as necessary; and
- make recommendations to Government, based on the evidence and assessment above.

Principles

The following principles will guide the Review:

- Eliminate duplication of regulation.
- Ensure that regulations and policies for improving safety performance in the road transport industry are based on credible evidence.

Consultation

In developing recommendations, the Review will detail the level of consultation undertaken with industry, government and other stakeholders and the outcomes of those consultations.

Outputs and reporting requirements

A report will be prepared for Government outlining any recommendations and their anticipated regulatory impact, supporting data and implementation and compliance strategies.