

Communication protocol for dealing with existing service providers and tenderers

The following is a communication protocol established to support the new Employment Services System 2009–12 Purchasing Arrangements ('the purchasing process').

The purpose of this protocol is to establish procedures to minimise the risk of any improper practice occurring that could influence the fair operation of the market or the probity of the purchasing process. These procedures also make provision for addressing any allegation of such impropriety.

Those who may be in positions that the public could perceive as having the power to influence the operation of the purchasing process have been identified as including:

- employees of DEEWR
- Ministers, Parliamentary Secretaries and their staff
- parliamentarians, whether Commonwealth, state or territory
- existing employment service providers and industry groups
- anyone else directly or indirectly involved in the tender process acting for DEEWR or with access to information about DEEWR activities that is not generally known (that is, those with 'inside' information).

The following procedures have been adopted to minimise the risk of any inappropriate influence on the purchasing process. Persons who have been identified as being in positions of potential influence are required to adhere to these procedures.

FURTHER INFORMATION ON PURCHASING ARRANGEMENTS

The Employment Services Purchasing Hotline of DEEWR provides an avenue for tenderers to seek feedback and to provide comment on the Exposure Draft of Purchasing Arrangements for the new Employment Services System 2009–12. However, to ensure probity of the tender process, the Employment Services Purchasing Hotline cannot provide tenderers with interpretation or advice on the content of the Exposure Draft, or with information that is not contained in the Exposure Draft or the employment services purchasing website at www.workplace.gov.au/espurchasing.

The Employment Services Purchasing Hotline can be contacted by phone on 1300 733 514 or email at espurchasing@deewr.gov.au Monday to Friday, 9.00 am to 5.00 pm Canberra time, excluding ACT and national public holidays. Tenderers should note that, following a call to the Hotline, they may be asked to put their question in writing and send it to this email address.

The website, Hotline and email address are the primary mechanisms for communications relating to purchasing matters. All persons, and in particular those who have been identified as being in positions of potential influence, are required to refer or direct any purchasing related enquiries or questions to the Hotline, website or email address.

MANAGING EXISTING CONTRACTS—ONGOING BUSINESS OF DEEWR CONTRACT AND ACCOUNT MANAGERS

During the period of the purchasing process, DEEWR Contract Managers will continue their ongoing day-to-day business but will only deal with service providers on contract management and administration issues, and will not discuss any issue relating to the purchasing process.

No DEEWR officer will volunteer any information about the purchasing process except through the formal arrangements that have been put in place to manage the release of information (i.e. the Hotline, website or email, and at Exposure Draft and RFT information sessions).

DEEWR Contract Managers are required to log any communications they have with current service providers or tenderers where purchasing issues are raised, including the Contract Manager's response. A copy of this is to be provided to the Probity Coordinator for the DEEWR 2008 Tender Team, who may also provide this to the Probity Advisor if appropriate.

DEEWR officers must ensure the security of all confidential information relating to the purchasing process.

CONTACT WITH DEEWR

During the purchasing process, DEEWR continues to interact with relevant stakeholders as a part of its ongoing business, including continuing any regular discussions with a range of interest groups and industry representative bodies.

Any discussions relating to the purchasing process, however, will not be permitted. The following principles will apply:

- All tenderers will only use the process set out in the Exposure Draft to contact DEEWR for the purpose of querying or clarifying any aspect of the purchasing process.
- DEEWR will not consider unsolicited references or submissions on behalf of providers or tenderers outside those provided for in the purchasing process.
- DEEWR, persons directly or indirectly involved in the purchasing process acting for DEEWR, and other persons who have been identified as being in positions of potential influence over the operation of the tender process will not enter into discussions or otherwise engage in any activity with tenderers, or other persons with an interest in the purchasing process, where this could be perceived as influencing the operation of the purchasing process.
- Views on individual tenderers or tenderers must not be expressed to DEEWR in a way that could be perceived as an attempt to influence DEEWR to favour, or disfavour, any tenderer.
- Details of any approaches by or on behalf of tenderers or tenderers will be fully documented. Communications or conduct suspected of involving a breach of the probity of the purchasing process or involving illegality will be investigated.

ASSISTANCE

Tenderers will compete on the basis of fair and open competition.

Tenderers will not be helped by any person in a position that the public could perceive as having power to influence the operation of the purchasing process to develop their submissions.

Tenderers will not receive any assistance in interpreting or otherwise using any information that has been made available about, or as part of, the purchasing process except as provided for in procurement documentation published by the Commonwealth of Australia, such as the RFT.

INFORMATION

Except as provided for in procurement documentation published by the Commonwealth of Australia:

- no tenderer will be provided with information about the purchasing process (including any policy matters relevant to or affecting the tender process)
- no tenderer will receive information about the decision-making processes

- all tenderers will have access to the same information provided during the purchasing process
- no tenderer will receive any information in advance of it being made available generally to tenderers
- no tenderer will receive more information than is publicly available
- data relating to an individual tenderer will only be made available to the tenderer to which the data relates, except when the data is used for the purposes of the tender or contract management and associated activities such as auditing.

PROBITY ADVISOR

DEEWR has appointed a probity advisor from Clayton Utz to advise on probity issues arising during the course of the purchasing process. Any issues or concerns about the integrity of the process, whether from tenderers or others, should be addressed to:

Probity Advisor
Clayton Utz, Solicitors
40 Marcus Clarke St
Canberra ACT 2601
Australia

Attention: Luke de Jong – Special Counsel
Telephone: +61 2 6279 4050
Facsimile: +61 2 6279 4099
Email: ldejong@claytonutz.com