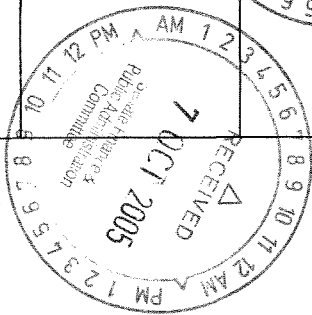
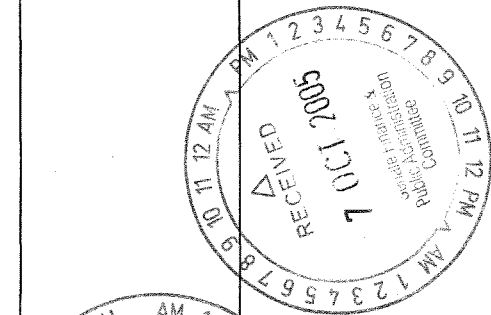


Government Advertising and Accountability Inquiry

Questions on Notice Index—PM&C

QON No.	Senator	Hansard reference	Question	Comments
1	Carr	F&PA 87-88 19/8/05	<p>Senator CARR—On what date were tenders called? [re IR ads campaign]</p> <p>Mr Williams—We will have to take that on notice. I do not have that information here. We can find out.</p>	
2	Carr	F&PA 89 19/8/05	<p>Mr Williams—My recollection is that four companies tendered for the advertising. I stand to be corrected, but my understanding is that four companies were asked to respond to the tender regarding the advertising. I am not sure about the public relations.</p> <p>Mr Taylor—Those details are coming.</p> <p>Senator CARR—Thank you.</p>	
3	Carr	F&PA 89 19/8/05	<p>Mr Williams—But it was, in a sense the normal—</p> <p>Mr Taylor—Around about four to five for each particular discipline is compiled, as I say, as a result of—</p> <p>Senator CARR—Do you have the names of those companies?</p> <p>Mr Taylor—Again, we will get them.</p>	
4	Carr / Forshaw	F&PA 91 19/8/05	<p>Senator CARR—My understanding is that a further \$250,000 was paid to Jackson Wells Morris and over \$1 million to Dewey and Horton. Is that right?</p> <p>Mr Williams—Those figures—and I would need to confirm them—are estimates of payments. I do not know what has actually been paid because the contracts for the three suppliers you mentioned are between DEWR and those three companies and I do not know what they have paid them to date.</p> <p>Senator CARR—Can the contracts be tabled?</p> <p>Senator Abetz—I would imagine commercial in confidence considerations would apply, but those sorts of questions would have to be asked of DEWR and the minister because they are the ones responsible for the contract.</p> <p>CHAIR—Can you take that question on notice?</p> <p>Mr Williams—Yes, we can take that on notice and make inquiries.</p> <p>CHAIR—Please take it on notice, because it has been made perfectly clear to this committee that your department is appearing on the basis of whole-of-government representation for all departments.</p>	



QON No.	Senator	Hansard reference	Question	Comments
5	Carr	F&PA 92 19/8/05	<p>Senator CARR—I am interested to know how the decisions are made and what the milestones are for the contracts. Can you provide that information with regard to this particular campaign?</p> <p>Mr Williams—As I have indicated to the chair, I will seek that information from DEWR.</p> <p>Senator CARR—I would like to know this: given that the Liberal Party advertised that Ted Horton is the principal of Dewey Horton and Mr Howard's former chief of staff, Grahame Morris, is a partner in Jackson Wells Morris, how is it that so many people so heavily and closely associated with the Liberal Party have been able to secure these contracts? What was the process they went through to secure those contracts?</p>	
6	Murray	F&PA 106 19/8/05	<p>Senator MURRAY—I wonder, because we are running out of time, could I please put this on notice to you through the chair?</p> <p>Senator Abetz—Yes.</p> <p>Senator MURRAY—Could you please indicate in writing to the committee those sections of the guidelines you think are already covered by your existing guidelines, those sections that you think are acceptable and those sections that you think are unacceptable so that we know with respect to the detail of those guidelines which particular aspects and elements you find contrary to good government?</p> <p>Senator WATSON—Is that with respect to the PAC report or the Auditor-General's?</p> <p>Senator MURRAY—You can combine the two.</p> <p>Senator WATSON—It is not clear from your question.</p> <p>Senator MURRAY—I am quite happy for it to combine the two. Let me make it clear. I do not have a problem with you not agreeing exactly with both of them. What I have a problem with is when you reject them in their entirety.</p> <p>Senator Abetz—I will have a look at it and see whether or not the government wants to add anything further to that which has been said about these reports in the past.</p>	
7	Forshaw	F&PA 111 19/8/05	<p>CHAIR—Minister, earlier this morning I asked the Clerk if he would provide a copy of correspondence that took place—a letter that I understand you wrote to him following the lodging of his submission and his reply. He said that he was not able to provide that, that it was private correspondence between him and you. But whether or not that should be made available is a matter for your consideration as well. Would you agree to provide a copy of that correspondence to this committee?</p> <p>Senator Abetz—I am more than happy to provide a copy of that correspondence.</p>	

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

Hearing of 19 August 2005

(Hansard page 88)

Senator Carr asked Mr Greg Williams of the Government Communications Unit, upon notice, on 19 August 2005:

On what date were tenders called for the Department of Employment and Workplace Relations, Workplace Relations Reforms Campaign?

The answer to Senator Carr's question is -- Tenders were called on 15 July 2005.

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

Hearing of 19 August 2005

(Hansard page 89)

Senator Carr asked Mr Greg Williams of the Government Communications Unit, upon notice, on 19 August 2005:

In relation to the Department of Employment and Workplace Relations, Workplace Relations Reforms Campaign what companies were invited to pitch?

The answer to Senator Carr's question is – The following companies were invited to pitch:

Research:

Worthington Di Marzio
Blue Moon Social Research
Colmar Brunton Social Research
Wallis Consulting
Woolcott Research

Public Relations:

Gavin Anderson and Company
Rowland Communication Group
Jackson Wells Morris
Macgregor Public Relations

Advertising:

Whybin TBWA
Dewy Horton
Batey Red Cell
Young & Rubicam

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

Hearing of 19 August 2005

(Hansard page 91)

Senator Carr asked Mr Greg Williams of the Government Communications Unit, upon notice, on 19 August 2005:

1. In relation to the Workplace Relations Reform Campaign, a further \$250,000 was paid to Jackson Wells Morris and over \$1 million to Dewey Horton. Is that right?
2. Can the contracts with the consultants be tabled?

The answers to Senator Carr's questions are:

1. No. These amounts are estimates only and, to our knowledge, no payments have been made to date.
2. The Department of Employment and Workplace Relations has provided the contract with Jackson Wells Morris for the Committee's information. The confidential information in the Schedules attached to the contracts which relate to remuneration rates have been removed to protect the Commonwealth's purchasing position and the consultants' commercial position. The relevant contract is attached. The final contracts with Dewey Horton and Colmar Brunton will be provided as soon as possible.

CONSULTANCY CONTRACT

between

COMMONWEALTH OF AUSTRALIA

as represented by the

Department of Employment and Workplace Relations

and

Jackson Wells Morris Pty Limited

ABN 16054 785 456

regarding Consultancy Services for

the development and implementation of an issues management strategy, for the
workplace relations reform communications campaign

– Draft Only –

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- Schedule 1 Consultant's Obligations
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- Schedule 3 Confidential Information

THIS CONTRACT is made

between

the COMMONWEALTH OF AUSTRALIA ('the Commonwealth'), as represented by the Department of Employment and Workplace Relations ABN 40 376 417 416 (the 'Department')

and and

Jackson Wells Morris Pty Limited, ABN 16054 785 456, ('the Consultant') a company incorporated under the *Corporations Act 2001 (Cth)* and having its registered office at Suite 16, 81-91 Military Road, Neutral Bay NSW 2089, Sydney, Australia.

WHEREAS:

- A. The Department is developing a national communications strategy to inform and educate the Australian public, specifically all working age Australians and business owners, of the major reforms to how Australia's workplace relations system operates.

The Commonwealth requires the provision of certain Consultancy Services to the Department for the purposes of developing and implementing an issues management strategy for the workplace relations reform communications campaign.

The Department has also commissioned developmental research to assist in refining the objectives of the reform communications campaign. The research findings will be available by 23 September 2005.

Prior to the implementation of the communications campaign, an issues management strategy is needed to provide accurate information about the reforms and to counter misinformation. The Consultant will develop and implement an issues management strategy to monitor and manage public issues during the development of the communications campaign, and develop a set of messages to build public support for the proposed reforms.

Given the scale of the proposed reforms the communications campaign is expected to be comprehensive, including an advertising campaign, public relations activities, and special activities for indigenous audiences and audiences from non-English speaking backgrounds.

- B. The Consultant has fully informed itself on all aspects of the work required to be performed and has submitted a proposal and quotation entitled 'the development and implementation of an issues management strategy, for the workplace relations reform communications campaign'.
- C. The Commonwealth has agreed to accept the Consultant's offer to provide the Consultancy Services upon the terms and conditions contained in this Contract.

NOW IT IS HEREBY AGREED as follows:

1. Interpretation

In this Contract, unless the contrary intention appears:

'ABN' has the same meaning as it has in the *A New Tax System (Australian Business Number) Act 1999*;

'Advisers' means a party's advisers engaged in, or in relation to, the performance or management of this Contract;

'Auditor-General' means the person so appointed in accordance with the *Auditor-General Act 1997* or a properly appointed delegate;

'Commonwealth' means the Commonwealth of Australia, including, but not limited to, where the context so admits, the Commonwealth as represented by the Department;

'Commonwealth Material' means any Material provided by the Commonwealth to the Consultant for the purposes of this Contract or which is copied or derived from Material so provided;

'Confidential Information' means:

- (a) the information described in Schedule 3; and
- (b) information that is agreed between the parties in writing after the date of this Contract as constituting confidential information for the purposes of this Contract;

'Consultancy Services' means the services described in Item A of Schedule 1;

'Consultant' where the context so admits, includes the officers, employees, Advisers, agents and subcontractors of the Consultant;

'Contract Material' means, subject to clause 8, all Material:

- (a) brought into existence for the purpose of performing the Consultancy Services;
 - (b) incorporated in, supplied or required to be supplied along with the Material referred to in paragraph (a); or
 - (c) copied or derived from Material referred to in paragraphs (a) or (b);
- particularly including (but not necessarily exclusively) the Material described in Item B of Schedule 1;

'Department' means the Commonwealth Department of Employment and Workplace Relations or such other government agency or department as may, from time to time, administer this Contract on behalf of the Commonwealth;

'General Interest Charge Rate' has the same meaning given by section 8AAD of the *Taxation Administration Act 1953*;

'Intellectual Property' includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

'GST' means Goods and Service Tax payable under the GST Act;

'GST Act' means the *A New Tax System (Goods and Services Tax) Act 1999*;

'Liaison Officer' means the person for the time being holding, occupying or performing the duties of the office of the Department specified in Item BB of Schedule 2 or any other person specified by the Project Delegate in writing and notified to the Consultant;

'Material' includes documents, equipment, software, goods, information and data stored by any means;

'Personal Information' means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

'Privacy Commissioner' means the person so appointed in accordance with the *Privacy Act 1988* or a properly appointed delegate;

'Project Delegate' means the person for the time being holding, occupying or performing the duties of the office of the Department specified in Item BB of Schedule 2 or any other person in writing and notified to the Consultant;

'Secretary' means the person for the time being holding, occupying or performing the duties of the office of Secretary to the Department and includes any other person designated in writing by that person to perform any function or to exercise any of the powers of the Secretary;

'Specified Personnel' means the personnel specified in Item E of Schedule 1 as personnel required to undertake the Consultancy Services or part of the work constituting the Consultancy Services;

'Taxable Supply' has the same meaning as it has in the GST Act; and

'Third Party Interest' means any legal or equitable right, interest, power or remedy in favour of any person other than the Consultant or the Department in connection with this Contract, including, without limitation, any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest.

1.2 In this Contract, unless the contrary intention appears:

- (a) words in the singular number include the plural and words in the plural number include the singular; and
- (b) words importing a gender include any other gender; and
- (c) words importing persons include a partnership and a body whether corporate or otherwise; and
- (d) clause headings, words capitalised or in bold format and notes in square brackets ("[]") are inserted for convenience only, and have no effect in limiting or extending the language of provisions, except for the purpose of rectifying any erroneous cross-reference; and
- (e) all references to clauses are clauses in this Contract; and
- (f) all references to dollars are to Australian dollars and this Contract uses Australian currency; and
- (g) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, is a reference to that statute or other legislation as amended; and

- (h) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.3 Schedule 1, Schedule 2, Schedule 3 and annexures (if any) form part of this Contract. In the event of any conflict between the terms and conditions contained in the clauses of this Contract and any part of the Schedules (and annexures if any), the terms and conditions of the clauses take precedence. In the event of any conflict between any part of the Schedules and any part of any annexures if any, the Schedules take precedence.
- 2. Provision of Consultancy Services**
- 2.1 The Consultant must perform the Consultancy Services (including the preparation of Contract Material) in accordance with Schedule 1 to a standard recognised as a high professional standard by the industry to which the Consultant belongs.
- 2.2 The Consultant must perform the Consultancy Services at the times specified in Item C of Schedule 1 and in the manner specified in Schedule 1 generally.
- 3. Fees, GST, Allowances and Assistance**
- 3.1 The Commonwealth must pay to the Consultant the reasonable and proper fees and allowances as specified in Item CC and Item DD of Schedule 2 and must meet and provide the reasonable and proper costs and assistance as specified in Item EE of Schedule 2.
- 3.1A Subject to any shorter period being specified in this Contract but notwithstanding any other clause, the Commonwealth must pay the Consultant the fees for the Consultancy Services within 30 days from the later to occur of:
- (a) the receipt by the Department of the Consultancy Services and where required by this Contract, approval of the Consultancy Services;
 - (b) the receipt by the Department of a correctly rendered invoice in relation to the Consultancy Services;
- but only if:
- (c) the invoice totals an amount equal to or less than \$5,000,000 inclusive of GST;
- and
- (d) the Consultant is a Small Enterprise; and
 - (e) the cost of the Consultancy Services is a departmental item of the Department.
- 3.1B For the purposes of 3.1A, 'Small Enterprise' means an Australian or New Zealand enterprise that at the date of commencement of this Contract:
- (a) employs less than the full-time equivalent of 20 persons; or
 - (b) supplies information technology goods or services and otherwise meets the definition of small enterprise specified in any Commonwealth information technology industry development guidelines applicable to this Contract at that date.
- 3.1C For the purposes of clause 3.1A, 'departmental' has the same meaning as defined in the Commonwealth manual *Requirements and Guidance for the Preparation of*

- 3.2 The fee determined in accordance with clause 3.1 includes GST for Taxable Supplies made by the Consultant under this Contract.
 - 3.3 Where Item CC of Schedule 2 provides that the Consultant is to be paid by progressive instalments (or by a single payment), the Commonwealth is entitled, without derogating from any other right it may have, to defer payment of an instalment (or the single payment) until the Consultant has completed to the satisfaction of the Commonwealth that part of the Consultancy Services to which that instalment (or the single payment) relates.
 - 3.4 The Consultant must submit invoices for payment in the manner specified in Item D of Schedule 1.
 - 3.5 The Consultant agrees to issue the Commonwealth with a tax invoice in accordance with the GST Act in relation to Taxable Supplies made by the Consultant under this Contract.
 - 3.6 If required by the *Taxation Administration Act 1953*, the Commonwealth will withhold a certain percentage of the amount claimed under an invoice that does not specify an ABN in respect of the Consultant.
 - 3.7 If an invoice is found to have been incorrectly rendered after payment, any underpayment or overpayment is recoverable by or from the Consultant, as the case may be, and without limiting recourse to other available means, may be offset against any amount subsequently due by the Commonwealth to the Consultant, whether under this Contract or any other contract the Commonwealth has with the Consultant.
 - 3.8 If a party fails to pay an amount payable by it to the other party under this Contract by the due date for payment, the first mentioned party must also pay to the other party simple interest on such unpaid amount at the General Interest Charge Rate calculated daily from the next day after the due date up to and including the date of payment.
 - 3.9 The Commonwealth is notionally liable to pay GST.
 - 3.10 Without limiting the generality of clause 3.2, if a supply made by the Commonwealth under this Contract is a Taxable Supply, the Commonwealth may, by notice in writing to the Consultant, require the Consultant to pay the Commonwealth within 30 days of receiving such notice, an amount equal to the amount of GST which is payable by the Commonwealth on the value of that Taxable Supply.
 - 3.11 The Commonwealth agrees to issue the Consultant with a tax invoice in accordance with the GST Act in relation to Taxable Supplies made by the Commonwealth under this Contract.
- 4. Entire Agreement and Variation**
- 4.1 This Contract constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Contract.

4.2 No agreement or understanding varying or extending this Contract, including in particular the scope of the Consultancy Services in Item A of Schedule 1, is legally binding upon either party unless in writing and signed by both parties.

5. Subcontracting

5.1 Except where a subcontractor is one of the Specified Personnel, the Consultant must not, without the prior written approval of the Commonwealth, subcontract the performance of any part of the Consultancy Services. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.

5.2 The Consultant will not enter into any subcontract for the purpose of directly or indirectly fulfilling its obligations under this Contract unless such a subcontract obliges the subcontractor to comply with equivalent provisions to those contained in clause 12 and in this subclause.

5.3 The Consultant is fully responsible for the performance of the Consultancy Services notwithstanding that the Consultant subcontracts the performance of any part of those services.

5.4 Despite any approval given by the Commonwealth under clause 5.1, the Consultant is responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out, and that the work carried out meets the requirements of this Contract.

5.5 The Consultant must ensure that a subcontractor is aware of all terms and conditions of this Contract relevant to the subcontractor's part in the provision of the Consultancy Services. 5.6 The Consultant must pay the subcontractors in accordance with the terms of the relevant subcontract.

6. Specified Personnel and Other Personnel

6.1 The Consultant must ensure that the Specified Personnel undertake work in respect of the Consultancy Services in accordance with the terms of this Contract.

6.2 Where Specified Personnel are unable to perform the work the Consultant agrees to notify the Commonwealth immediately. The Consultant must, if so requested by the Commonwealth, provide replacement personnel acceptable to the Commonwealth at no additional charge and at the earliest opportunity.

6.3 The Commonwealth may, at its absolute discretion, give notice requiring the Consultant to remove personnel (including Specified Personnel) from work in respect of the Consultancy Services. The Consultant must, at its own cost, promptly arrange for the removal of such personnel from work in respect of the Consultancy Services and their replacement with personnel acceptable to the Commonwealth.

6.4 If the Consultant is unable to provide acceptable replacement personnel the Commonwealth may terminate this Contract in accordance with the provisions of clause 21.

7. Liaison

7.1 The Consultant must liaise with and report to the Project Delegate or the Liaison Officer as reasonably required by the Project Delegate during the period of this Contract.

7.2 The Consultant may nominate from time to time a person who has authority to receive and sign notices and written communications for the Consultant under this Contract and accept any request or direction in relation to the Consultancy Services.

8. Contract Material

8.1 Ownership of all Contract Material vests in the Commonwealth upon creation.

8.2 Upon the expiration or earlier termination of this Contract the Consultant must, subject to clause 12, deliver to the Department all Contract Material remaining in its possession save for one copy which must be retained for the Consultant's file.

8.3 The preceding subclauses of this clause apply subject to any stipulation to the contrary in Item B1 of Schedule 1.

9. Commonwealth Material

9.1 Ownership of all Commonwealth Material remains vested at all times in the Commonwealth.

9.2 Upon the expiration or earlier termination of this Contract, the Consultant must return to the Department all Commonwealth Material remaining in its possession.

9.3 The preceding subclauses of this clause apply subject to any stipulation to the contrary in Item B2 of Schedule 1.

9.4 The Consultant must ensure that the Commonwealth Material is used, copied, supplied or reproduced only for the purposes of this Contract.

9.5 The Consultant must use the Commonwealth Material strictly in accordance with any conditions or restrictions set out in Item B3 of Schedule 1, or notified from time to time in writing by the Commonwealth.

10. Intellectual Property

10.1 Subject to this clause, Intellectual Property in all Contract Material vests immediately or will vest in the Commonwealth.

10.2 Clause 10.1 does not affect the ownership of Intellectual Property in any Material which is specified in Item B4 of Schedule 1. However, the Consultant grants to the Commonwealth a permanent, irrevocable royalty-free, non-exclusive licence (including a right of sublicense) to use, reproduce, adapt and exploit the Material anywhere in the world. Notwithstanding Part VII of the *Copyright Act 1968*, publication of the Material in accordance with this licence does not affect such ownership.

10.3 If requested by the Commonwealth to do so, the Consultant must bring into existence, sign, execute or otherwise deal with any document which may be necessary or desirable to give effect to this clause.

10.4 The Consultant warrants that it is entitled, or will be entitled or will procure that it is entitled at the relevant time, to deal with the Intellectual Property in any Contract Material in the manner provided for in this clause.

10.5 The operation of this clause 10 survives the expiration or earlier termination of the term of this Agreement.

11. Disclosure of Information

- 11.1 Subject to clause 11.5, a party must not, without the prior written approval of the other party, disclose any Confidential Information of the other party to a third party.
- 11.2 In giving written consent to the disclosure of the Commonwealth's Confidential Information, the Department may impose such conditions as it thinks fit, and the Consultant agrees to comply with these conditions.
- 11.3 If the Consultant has been requested to disclose or provide access to any Confidential Information of the Commonwealth, it must:
- (a) notify the Commonwealth in writing of the request providing sufficient notice to enable the Commonwealth to seek a protective order or other relief from disclosure; and
 - (b) provide all assistance and co-operation which the Commonwealth reasonably considers necessary for that purpose.
- 11.4 The Commonwealth may at any time require the Consultant to arrange for:
- (a) any persons working on the provision of Consultancy Services under this Contract;
 - (b) its Advisers; or
 - (c) any person with a Third Party Interest;
- to give a written undertaking in the form of a deed relating to the use and nondisclosure of the Commonwealth's Confidential Information. The Consultant must promptly arrange for all such undertakings to be given.
- 11.5 The obligations on the parties under this clause will not be taken to have been breached to the extent that the Confidential Information:
- (a) is disclosed by a party to its Advisers or employees solely in order to comply with obligations, or to exercise rights, under this Contract;
 - (b) is disclosed to a party's internal management personnel, solely to enable effective management or auditing of contract related activities;
 - (c) is disclosed by the Department to the Department's Minister or another Commonwealth Minister;
 - (d) is disclosed by the Department, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - (e) is authorised or required by law to be disclosed;
 - (f) is disclosed by the Department and is information in a material form in respect of which an interest, whether by licence or otherwise, in the Intellectual Property in relation to that material form, has vested in, or is assigned to, the Department under this Contract or otherwise, and that disclosure is permitted by that licence or otherwise; or
 - (g) is in the public domain otherwise than due to a breach of this clause.
- 11.6 Where a party discloses the other party's Confidential Information to another person:
- (a) pursuant to clauses 11.5 (a) or (b), the disclosing party must:

- (i) notify the receiving person that the information is the other party's Confidential Information; and
 - (ii) not provide the information unless the receiving person agrees to keep the information confidential; or
- (b) pursuant to clauses 11.5 (c) and (d), the disclosing party must notify the receiving party that the information is the other party's Confidential Information.
- 11.7 The parties may agree in writing after the date of this Contract that certain additional information is to constitute Confidential Information for the purposes of this Contract.
- 11.8 Where the parties agree in writing after the date of this Contract that certain additional information is to constitute Confidential Information for the purposes of this Contract, this documentation is incorporated into, and becomes part of this Contract, on the date by which both parties have signed this documentation.
- 11.9 The obligations under this clause continue, notwithstanding the expiry or termination of this Contract:
- (a) in relation to an item of information described in Schedule 3 -- for the period set out in that Schedule in respect of that item; and
 - (b) in relation to any information which the parties agree in writing after the date of this Contract is to constitute Confidential Information for the purposes of this Contract--for the period agreed by the parties in writing in respect of that information.
- 11.10 Nothing in this clause derogates from any obligation which the Consultant may have under the *Privacy Act 1988* as amended from time to time, or under this Contract, in relation to the protection of Personal Information.
- 12. Protection of Personal Information**
- 12.1 This clause applies only where the Consultant deals with personal information when, and for the purpose of, providing the Services under this Contract.
- 12.2 The Consultant acknowledges that it is a 'contracted service provider' within the meaning of section 6 of the *Privacy Act 1988* (the Privacy Act) and agrees in respect of the provision of Services:
- (a) to use or disclose personal information obtained during the course of providing the Services under this Contract, only for the purposes of this Contract;
 - (b) not to do any act or engage in any practice that would breach an Information Privacy Principle (IPP) contained in section 14 of the Privacy Act, which if done or engaged in by an agency, would amount to a breach of that IPP;
 - (c) to carry out and discharge the obligations contained in the IPPs as if it were an agency under the Privacy Act;
 - (d) to notify individuals whose personal information the Consultant holds, that complaints about acts or practices of the Consultant may be investigated by the Privacy Commissioner who has power to award compensation against the Consultant in appropriate circumstances;

- (e) not to use or disclose personal information or engage in an act or practice that would breach section 16F (direct marketing), an NPP (particularly NPPs 7 to 10) or an APC, where that section, NPP or APC is applicable to the Consultant, unless:
 - (i) in the case of section 16F - the use or disclosure is necessary, directly or indirectly, to discharge an obligation under this Contract; or
 - (ii) in the case of an NPP or an APC - where the activity or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Contract, and the activity or practice which is authorised by this Contract is inconsistent with the NPP or APC;
- (f) to disclose in writing to any person who asks, the content of the provisions of this Contract (if any) that are inconsistent with an NPP or an APC binding a party to this Contract;
- (g) to immediately notify the agency if the Consultant becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 12, whether by the Consultant or any Subcontractor;
- (h) to comply with any directions, guidelines, determinations or recommendations arising in relation to this Contract to the extent that they are not inconsistent with the requirements of this clause; and
- (i) to ensure that any employee of the Consultant who is required to deal with personal information for the purposes of this Contract is made aware of the obligations of the Consultant set out in this clause 12.

12.3 The Consultant agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the subcontractor has the same awareness and obligations as the Consultant has under this clause, including the requirement in relation to subcontracts.

12.4 The Consultant agrees to indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth which arises directly or indirectly from a breach of any of the obligations of the Consultant or a Subcontractor under this clause 12.

12.5 In this clause 12, the terms *agency*, *approved privacy code (APC)*, *Information Privacy Principles (IPPs)*, *National Privacy Principles (NPPs)* and *personal information* have the same meaning as they have in section 6 of the Privacy Act.

12.6 The provisions of this clause 12 survive the termination or expiration of this Contract.

13. Official Secrets

13.1 The Consultant:

- (a) acknowledges that it is aware of the provisions of section 79 of the *Crimes Act 1914* relating to official secrets; and
- (b) undertakes with respect to any officer, employee, agent or subcontractor who will have access to documents, materials or information within the meaning of the section that prior to having such access the said officer, employee, agent and subcontractor will first be required by the Consultant to

provide the Consultant with an acknowledgment that such officer, employee, agent or subcontractor is aware of the provisions of the section.

14. Compliance with Commonwealth Policies

- 14.1 When performing its contractual obligations, the Consultant agrees to comply with any of the Commonwealth's policies as notified by the Department in writing, including those listed in Item I of Schedule 1.
- 14.2 The Consultant must, in its dealings with its employees, have due regard to Commonwealth policies on employment, including the *Workplace Relations Act 1996*, and obligations under relevant occupational health and safety laws.
- 14.3 The Consultant agrees, when using the Commonwealth's premises or facilities, to comply with all reasonable directions and Departmental procedures relating to occupational health safety and security in effect at those premises or in regard to those facilities, as notified by the Commonwealth or as might reasonably be inferred from the use to which the premises or facilities are being put.

15. Indemnity

- 15.1 The Consultant agrees to at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause referred to as "those indemnified") from and against:
- (a) any liability incurred by the Commonwealth;
 - (b) any loss of or damage to property of the Commonwealth; or
 - (c) any loss or expense incurred by the Commonwealth in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth,

arising from:

- (d) any act or omission by the Consultant in connection with this Contract;
- (e) any breach by the Consultant of its obligations or warranties under this Contract;
- (f) any act or omission by a subcontractor in connection with, or incidental to, the provision of the Services under this Contract or the subcontract;
- (g) any act or omission by a subcontractor that results in a breach by the Consultant of any of the Consultant's obligations or warranties under this Contract; or
- (g) any infringement of Intellectual Property by the Consultant in the course of, or incidental to, performing the Services or the use by the Commonwealth of the Contract Material,

where there was fault on the part of the person whose conduct gave rise to that liability, loss, damage or expense.

- 15.2 The Consultant's liability to indemnify the Commonwealth under clause 15.1 is reduced proportionally to the extent that any act or omission of the Commonwealth or its employees or agents contributed to the loss or liability.
- 15.3 The right of the Commonwealth to be indemnified under this clause 15 is in addition to, and not exclusive of, any other right, power or remedy provided by

law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant liability, loss or damage, or loss or expense.

15.4 The indemnity referred to in clause 15.1 survives the expiration or termination of this Contract.

16. Insurance

16.1 With respect to the performance of the Consultancy Services under this Contract, the Consultant must maintain and must require all of its subcontractors to maintain, the insurances as described in Item F of Schedule 1.

16.2 Such insurance must be maintained from the time the Consultancy Services first commence until completion of the Consultancy Services under this Contract. Failure to maintain the insurance will entitle the Commonwealth to terminate this Contract in accordance with clause 21.

16.3 Such insurance must not be cancelled except on 30 days' prior written notice to the Commonwealth.

16.4 Whenever requested, the Consultant must provide the Commonwealth with a copy of any insurance policy held in accordance with clause 16.1 or a certificate of currency.

17. Conflict of Interest

17.1 The Consultant warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Contract no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract by itself or by any of its employees, agents or subcontractors.

17.2 The Consultant undertakes that :

(a) subject to the remaining parts of this clause, it will not enter into any arrangement, scheme or contract, however described, which may cause a conflict of interest concerning the Consultant's performance of the Consultancy Services;

(b) should it become aware of the possibility of a conflict of interest, it will immediately notify the Project Delegate of the details of such a possible conflict of interest, and will provide details of steps that the Consultant will take to resolve or deal with the conflict; and

(c) if the Consultant fails to notify DEWR of the possibility of such conflicts of interest, or is unable or unwilling to resolve or deal with the conflicts as may reasonably be required by DEWR, DEWR may terminate this Contract.

17.3 The Consultant must not, and must ensure that any employee, agent, or subcontractor of the Consultant does not, engage in any activity or obtain any interest during the course of this Contract that is likely to conflict with or restrict the Consultant in providing the Consultancy Services to the Commonwealth fairly and independently.

18. Access and Audits

18.1 The Consultant must at all reasonable times give to the Project Delegate or to any persons authorised in writing by the Secretary, access to premises occupied by the Consultant where the Consultancy Services are being undertaken and shall permit those persons to inspect the performance of the Consultancy Services and any

Commonwealth Material, Contract Material or other Material relevant to the Consultancy Services.

- 18.2 The Consultant must, on receiving reasonable notice, participate promptly and cooperatively in any audits of this Contract at the frequency and in relation to the matters specified by the Commonwealth, (including on an ad hoc basis if requested by the Commonwealth), for the purpose of ensuring that this Contract is being properly performed and administered.
- 18.3 The Commonwealth may appoint an independent person to assist in the audits. Audits may consider all aspects of the Consultant's performance including the following:
- (a) the Consultant's practices and procedures as they relate to this Contract, including security procedures;
 - (b) the Consultant's compliance with all its obligations under this Contract;
 - (c) the compliance of the Consultant's invoices and reports with its obligations under this Contract; and
 - (d) the Consultant's compliance with the confidentiality, privacy, and security provisions of this Contract and all relevant Commonwealth policy obligations under this Contract.
- 18.4 Subject to any express provisions in this Contract to the contrary, each party must bear its own costs of any audits.
- 18.5 The Commonwealth must use reasonable endeavours to ensure that audits performed pursuant to clause 18.2 do not unreasonably delay or disrupt in any material respect the Consultant's performance of its obligations under this Contract.
- 18.6 The Consultant must promptly take, at no additional cost to the Commonwealth, corrective action to rectify any error, non-compliance or inaccuracy identified in any audit in the way the Consultant has under this Contract:
- (a) supplied any goods or services; or
 - (b) calculated fees, or any other amounts or charges billed to the Commonwealth.
- 18.7 The Project Delegate or any persons authorised in writing by the Secretary, the Auditor-General or the Privacy Commissioner may, at reasonable times:
- (a) access the premises of the Consultant;
 - (b) require the provision by the Consultant, its employees, agents or subcontractors, of records and other information which are related to this Contract; and
 - (c) access, inspect and copy documentation and records or any other matter relevant to the Consultant's obligations or performance of this Contract, however stored, in the custody or under the control of the Consultant, its employees, agents or subcontractors.
- 18.8 The Consultant must ensure that it keeps full and complete records in accordance with all applicable Australian Accounting Standards and that data, information and records relating to this Contract or its performance are maintained in such a form and manner as to facilitate access and inspection under clause 18.2.

18.9 The Consultant must ensure that any subcontract entered into for the purpose of this Contract contains an equivalent clause granting the rights specified in clauses 18.2, 18.3 and 18.7 with respect to the subcontractor's premises, data, records, accounts, financial material and information and those of its employees, agents or subcontractors.

18.10 Clause 18.7 applies for the term of this Contract and for a period of 7 years from the date of its expiration or termination.

18.11 Nothing in this Contract reduces, limits or restricts in any way any function, power, right or entitlement of the Auditor-General or the Privacy Commissioner.

19. Negation of Employment, Partnership and Agency

19.1 The Consultant must not represent itself, and must ensure that its employees do not represent themselves, as being an employee, partner or agent of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.

19.2 The Consultant will not by virtue of this Contract be or for any purpose be deemed to be an employee, partner or agent of the Commonwealth, or as having any power or authority to bind or represent the Commonwealth.

20. Termination and Reduction

20.1 The Commonwealth may, at any time by written notice, terminate this Contract, in whole or in part. If this Contract is so terminated, the Commonwealth is liable only for:

- (a) payments under the payment provisions of this Contract for Consultancy Services rendered before the effective date of termination; and
- (b) subject to clauses 20.3 and 20.4 any reasonable costs incurred by the Consultant and directly attributable to the termination or partial termination of this Contract.

20.2 Upon receipt of a notice of termination the Consultant must:

- (a) stop work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination and to protect Commonwealth Material and Contract Material; and
- (c) continue work on any part of the Consultancy Services not affected by the notice.

20.3 In the event of partial termination the Commonwealth's liability to pay fees under Item CC of Schedule 2 will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Consultancy Services.

20.4 The Commonwealth will not be liable to pay compensation in an amount which would, in addition to any amounts paid or due, or becoming due, to the Consultant under this Contract, together exceed the fees set out in Item CC of Schedule 2. The Consultant will not be entitled to compensation for loss of prospective profits.

21. Default

21.1 If either party is in default under this Contract on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Contract, the party not in default may, subject to clause 21.2, by notice in writing to the other party, terminate this Contract in whole or in part without

prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

21.2 Where the default is capable of being remedied, a party must not exercise its rights of termination under clause 21.1 unless it has first given to the other party notice in writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 working days) specified in the notice and the default is not remedied within the time allowed.

21.3 If the Consultant:

- (a) in the case of a company, comes under any form of external administration, including any of those referred to in Chapter 5 of the *Corporations Act 2001*, or an order, or application, has been made for the purpose of placing the Consultant under external administration; or
- (b) in the case of an individual, becomes bankrupt or makes any arrangements, assignments, compositions or agreements for the benefit of his or her creditors under the *Bankruptcy Act 1966* (Cwth), or a creditor's petition is filed with an Australian court seeking a sequestration order against his or her estate,

the Commonwealth may, by notice in writing, terminate this Contract without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

22. Waiver

22.1 A waiver by either party in respect of any breach of a condition or provision of this Contract will not be deemed to be a waiver in respect of any continuing or subsequent breach of that provision, or breach of any other provision. The failure of either party to enforce at any time any of the provisions of this Contract will in no way be interpreted as a waiver of such provision.

23. Compliance with Law

23.1 The Consultant must in carrying out this Contract comply with the provisions of any relevant statutes, regulations, by-laws, and requirements of any Commonwealth, State, Territory or local authority, including those listed in Item I of Schedule 1.

24. Dispute Resolution

24.1 Subject to clause 24.4, before resorting to external dispute resolution mechanisms, the parties must attempt to settle by negotiation any dispute in relation to this Contract including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.

24.2 If a dispute is not settled by the parties within 10 working days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanism as may be agreed in writing between the parties.

24.3 Notwithstanding the existence of a dispute, each party must continue to perform its obligations under this Contract.

24.4 A party may commence court proceedings relating to any dispute arising from this Contract at any time where that party seeks urgent interlocutory relief.

24.5 This clause survives the expiration or termination of this Contract.

25. Assignment and Novation

- 25.1 The Consultant must not assign, in whole or in part, its benefits under this Contract without the prior written approval of the Commonwealth.
- 25.2 The Consultant must not consult with any other person or body for the purposes of entering into an arrangement which will require novation of this Contract without first consulting the Commonwealth.

26. Severability

- 26.1 Each provision of this Contract and each part thereof is, unless the context otherwise necessarily requires it, to be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) is severed and the remainder will be read and construed as if the severable provision or part had never existed.

27. Applicable Law

- 27.1 This Contract is governed by and construed in accordance with the laws of the State or Territory nominated in Item H of Schedule 1 and the parties agree, subject to this Contract that the Courts of that State or Territory have jurisdiction to entertain any action in respect of, or arising out of, this Contract.

28. Notices

- 28.1 Any notice, request or other communication to be given or served pursuant to this Contract must be in writing and dealt with as follows:
- (a) if given by the Consultant to the Commonwealth — marked for the attention of the Project Delegate at the address indicated in Item AA of Schedule 2 or as otherwise notified by the Commonwealth; or
 - (b) if given by the Commonwealth to the Consultant — signed by the Project Delegate and marked with the address indicated in Item G of Schedule 1 or as otherwise notified by the Consultant under clause 7.
- 28.2 Any notice, request or other communication is to be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is sent or transmitted electronically a copy is to be sent to the addressee by pre-paid post.
- 28.3 Any notice, request or other communication will be deemed to be received:
- (a) if delivered by hand, upon delivery;
 - (b) if sent by pre-paid ordinary post within Australia, upon the expiration of 2 business days after the date on which it was sent; and
 - (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.
- 29. Engagement of Illegal Workers Prohibited**
- 29.1 The Consultant must ensure that all its employees, agents, and any other person engaged to carry out the Services, including those engaged by any subcontractors are at all times:
- (a) Australian citizens; or
 - (b) in the case of persons who are not Australian citizens, not illegal workers.

- 29.2 The Consultant must remove or cause to be removed any illegal worker from any involvement in the carrying out of Services and arrange for their replacement at no cost to the Commonwealth immediately it becomes aware of the involvement of the illegal worker. The Consultant must immediately notify the Commonwealth of the involvement of the illegal worker and the removal.
- 29.3 For avoidance of doubt, compliance with the Consultant's obligations under this clause 29 will not give rise to an entitlement to claim any delay or otherwise excuse the Consultant from compliance with its obligations under this Contract.
- 29.4 When requested by the Commonwealth, the Consultant will provide evidence that it has taken all reasonable steps to ensure it has complied and is complying with its obligations under this clause 29, including in relation to any subcontractors.
- 29.5 The Consultant must provide the Commonwealth with evidence referred to in clause 29.4 within 5 working days of receiving the Commonwealth's request.
- 29.6 For the purposes of this clause an illegal worker is a person who:
- (a) has unlawfully entered and remains in Australia;
 - (b) has lawfully entered Australia, but remains in Australia after his/her visa has expired; or
 - (c) is working in breach of his/her visa conditions.

SCHEDULE 1

Consultant's Obligations and Work to be Performed

A. Consultancy Services (see clauses 1.1 and 2.1)

The consultancy services to be provided are described in Items A1 and A2.

A1. Issues management strategy - objectives and outcomes

The Consultant must conduct the following tasks:

A1.1 Develop issues management strategy

The Consultant must develop an issues management strategy in consultation with the Department. As part of this task the Consultant must:

- a) identify potential public issues relating to the reforms. This will include media monitoring and analysis to advise the Minister and the Department of potential issues or opportunities. The Consultant must retain copies of all print and electronic media clippings collected by the Consultant in relation to the reforms; and;
- b) develop a draft proactive issues management strategy based on the analysis detailed in A1.1(a) among other factors, aimed at minimising the negative public relations impact of the reforms. The Consultant will ensure that the issues management strategy addresses the needs of the following target audiences:
 - i. employees: including employees covered by awards (both Federal and State), employees with Australian Workplace Agreements, employees covered by formally certified agreements (both Federal and State) and employees covered by common law contracts; and

- ii. employers: all incorporated businesses, including small business owners, human resource managers, employers in industries with high award coverage, employers with less than 100 employees and non-incorporated businesses.
 - iii. The broader community particularly special interest groups, unions, academics specialising in industrial relations and/or economics, law firms, and employer groups.
 - iv. State Governments, State Government Shadow Ministers, Australian Government staff, Government Ministers and the media.
- c) The issues management strategy must include the following at a minimum;
- i. existing and potential public issues or opportunities relating to the reforms, as identified by the Consultant;
 - ii. a media protocol to manage media responses;
 - iii. proposed methods to create and optimise opportunities for supportive media coverage;
 - iv. a proposed set of comprehensive and consistent messages for use by the Minister and the Department, to build public support for the proposed reforms. The Consultant may refer to the existing research provided by the Department, ABS data and media coverage to develop these messages. The messages should broadly draw on the key themes the Government is currently promoting as benefits of the new system, such as it being modern, simple, flexible, streamlined and fair;
 - v. an outline of appropriate communication methods and tools to convey messages to each target group as part of the communications campaign;
 - vi. an investigation of the need for, and an outline of any proposed supporting information materials that may be required for the communications campaign;
 - vii. an identification of ways to highlight potential 'reform champions' who can assist the Australian Government to build public support for the proposed reforms;
 - viii. any other key elements which the Department may specify during the development of the issues management strategy.
- d) present the draft issues management strategy to the Department for approval, and liaise with the Department to finalise the issues management strategy prior to implementation.

A1.2 Implement issues management strategy

Immediately following written approval from the Department, the Consultant must implement the issues management strategy. This task includes the following:

- a) ongoing identification of potential public issues relating to the reforms, including media monitoring and analysis to advise the Minister and the Department of potential issues or opportunities;
- b) implementation of the approved media protocol to manage media responses;
- c) creation and optimisation of opportunities for supportive media coverage, following the methods outlined in the issues management strategy;

- d) implementation of the set of key messages outlined in the issues management strategy, and identification/and or creation of any new messages appropriate for use by the Minister and the Department to build public support for the proposed reforms. The Consultant may refer to the existing research provided by the Department, ABS data and media coverage to develop these messages. The messages should broadly draw on the key themes the Government is currently promoting as benefits of the new system, such as it being modern, simple, flexible, streamlined and fair;
- e) as required, and in consultation with the Department, the development, production and distribution of any supporting information materials that may be needed for the communications campaign. The Consultant must retain copies of all government media releases, fact sheets, invitations, and related communications materials prepared by the Consultant in relation to the reforms;
- f) on an ongoing basis, highlighting potential 'reform champions' who can assist the Australian Government to build public support for the proposed reforms;
- g) working with the Department to implement any other key elements of the issues management strategy.

A1.3 Evaluation report on outcomes

At the completion of the issues management phase (i.e. 27 January 2006), the Consultant must submit a draft evaluation report to the Department for approval. This report must contain:

- a) copies of all media releases, fact sheets, invitations, and related communications materials prepared by the Consultant;
- b) any print and electronic media clippings related to the reforms and collected by the Consultant;
- c) an outline of other outcomes such as, but not limited to, alliances, and partnerships between the Department and other bodies in relation to the reforms;
- d) a summary of the strengths and weaknesses of the issues management strategy for the reforms, and recommendations for future public relations action;
- e) a budget summary of the issues management strategy;
- f) an assessment of the outcomes of the issues management strategy and internal efficiencies achieved by the Consultant.

Upon approval of the draft evaluation report by the Department, the Consultant will provide a final report to the Department.

A2 Reporting

A2.1 As required, the Consultant must present details of the issues management strategy or its components to:

- a) the Ministerial Committee on Government Communications (MCGC);
- b) The Department; and
- c) The Office of the Minister for Employment and Workplace Relations.

The content of these presentations will range from an overview of the issues management strategy, to a detailed report of the progress of the strategy and the success of it's

implementation. These presentations will be on an ad-hoc basis, and the Consultant will receive payment for Items A2.1 (a) and A2.1 (c) on an hourly basis.

A2.2 At the completion of the issues management phase (i.e. 27 January 2006), the Consultant will submit an evaluation report containing the items described in Item A1.3 of this Schedule 1 :

A2.3 The Consultant must provide, at a minimum, weekly progress reports on the issues management process to the Department's liaison officer via email or phone conversation. These reports should contain details regarding the Consultant's progress on the deliverables as specified in Items A1 and A2 of this Schedule 1, and on other deliverables as requested by the Department. Upon execution of the contract, the Consultant and the Department will decide on which day the weekly progress report is to occur.

B. Contract Material (see clauses 1.1, 2.1 and 8)

The Consultant must produce the following contract materials, and supply one hard copy and one electronic copy (Microsoft Word format) of each:

1. the draft issues management strategy;
2. the final issues management strategy;
3. the draft evaluation report;
4. the final evaluation report;
5. All other reports that may be created as a result of Item A.3 of Schedule 1.

B1. Consultant's Rights to Contract Material (see clause 8.3)

There is no contrary stipulation.

B2. Consultant's Rights to Commonwealth Material (see clause 9.3)

There is no contrary stipulation.

B3. Use of Commonwealth Material (see clause 9.5)

There is no contrary stipulation.

B4. Material Not to Vest in Commonwealth (see clause 10.2)

There is no contrary stipulation.

C. Time-frame (see clause 2.2)

The timeframe for the issues management phase is as follows:

Order	Action	Date
1	Consultant to start work	Immediately following contract execution
2	Consultant to provide draft issues management strategy for approval by Department as described in Item A1.1 of this Schedule 1.	2 weeks following contract execution
3	Consultant to provide final issues management strategy to Department as described in Item A1.1 of this Schedule 1.	3 working days following approval from the Department of the draft

		issues management strategy
4	Consultant to implement final issues management strategy as described in Item A1.1 and A1.2 of this Schedule 1.	Immediately following written approval from the Department of the final issues management strategy
5	Consultant to provide draft evaluation report to Department as described in Item A1.3 of Schedule 1	At the completion of the implementation of the final issues management strategy (i.e. 27 January 2006)
6	Consultant to provide final evaluation report to Department as described in Item A1.3 of Schedule 1	3 working days following approval from the Department of the draft evaluation report
7	All reports that may be created as a result of Item A2.3 of this Schedule 1.	Weekly from contract commencement
8	Project complete	On satisfactory receipt of above.

D. Invoice Procedures (see clauses 3.4, 3.5 and 3.6)

Invoices forwarded by the Consultant must be correctly addressed and must include the following information:

- (a) title of Consultancy Services;
- (b) name of Project Delegate; and
- (c) contract number or purchase order number (if any).

Invoices may be sent by facsimile to the number or email address specified in Item AA of Schedule 2.

Subject to acceptance of the Consultancy Services by the Commonwealth, the due date for payment will be 30 days after receipt of a correctly rendered invoice to the Commonwealth and following delivery of the Consultancy Services.

E. Specified Personnel (see clauses 1.1 and 6)

The Consultant must ensure that the following work, namely conducting developmental research for the workplace relations reform education campaign will be undertaken by **John Wells, Grahame Morris, and Trevor Cook**. These specified personnel will also be assisted by **Keith Jackson, Ben Haslem, Jakob Webster, Katherine Merrill and Penelope Fischer**.

F. Insurance (see clause 16)

The Consultant must maintain:

- workers' compensation insurance for an amount required by the relevant State or Territory legislation; and

- commercial general liability insurance covering liability arising from premises, operations, independent contractors, personal injury, products completed operations, and liability assumed under an insured contract on an occurrence basis, with a limit of not less than \$5 million each occurrence and in the aggregate; and
- professional indemnity insurance for an amount of not less than \$ 2 million.

G. Liaison & Notices (see clauses 7 and 28)

Jackson Wells Morris Pty Limited, ABN 16054 785 456, a company incorporated under the *Corporations Act 2001 (Cth)* and having its registered office at Suite 16, 81-91 Military Road, Neutral Bay NSW 2089, Sydney, Australia.

H. Applicable Law (see clause 27)

Australian Capital Territory.

I. Compliance with Commonwealth Policies and Legislation (see clauses 14 and 23)

The Consultant must comply with the following Commonwealth policies:

- the Australian Government Implementation Guidelines for The National Code of Practice for the Construction Industry ; and
- Indigenous Procurement* (www.workplace.gov.au/indigenousprocurement).

The Consultant must comply with the following legislation:

- Age Discrimination Act 2004 (Cth)* and the *Age Discrimination (Consequential Provisions) Act 2004 (Cth)*;
- Crimes Act 1914 (Cth)*;
- Disability Discrimination Act 1975 (Cth)*;
- Equal Opportunity for Women in the Workplace Act 1999 (Cth)*;
- Occupational Health and Safety (Commonwealth Employment) Act 1991 (Cth)*;
- Occupational Health and Safety (Commonwealth Employment)(National Standards) Regulations 1994 (Cth)*;
- Racial Discrimination Act 1975 (Cth)*;
- Sex Discrimination Act 1984 (Cth)*;
- Workplace Relations Act 1996 (Cth)*; and
- Workplace Relations Regulations 1996 (Cth)*.

SCHEDULE 3
Confidential Information

A. COMMONWEALTH'S CONFIDENTIAL INFORMATION

1. Contract Provisions/Schedules/Attachments

Item	Period of Confidentiality

2. Contract-related material

Item	Period of Confidentiality
All information provided by the Commonwealth to the Consultant under this Contract, whether provided verbally and/or in writing.	7 years from the completion of all work required to be performed under this contract.

B. CONSULTANT'S CONFIDENTIAL INFORMATION

1. Contract Provisions/Schedules/Attachments

Item	Period of Confidentiality

2. Contract-related material

Item	Period of Confidentiality

SIGNED for and on behalf of:

THE COMMONWEALTH OF AUSTRALIA as represented by:

The Department of Employment and Workplace Relations (ABN 40 376 417 416)

JOHN KOVACIC

(Printed Name)

John Kovacic

(Signature)

GROUP MANAGER - WR POLICY

(Title)

25.7.2005

(Date)

In the presence of:

MELISSA RYAN

(Printed Name)

Melissa Ryan

(Signature)

25.7.2005

(Date)

THE COMMON SEAL OF

Jackson Wells Morris Pty Limited, ABN 16054 785 456

was hereunto affixed in accordance with its Constitution



JOHN WELLS

John Wells

John Wells

(Signature)

Chief Executive

(title)

20/7/05

(Date)

{*Two signatures will be required if the first signature is not by a sole director/secretary. Insert: Director or Company Secretary}

{Where the Consultant is a Company incorporated under the Corporations Act 2001 (Cth) and will execute the contract with other than a common seal, use the following

KEITH JACKSON

Keith Jackson

Keith Jackson

(Signature)

Director

(Title)

20/7/05

(Date)

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

Hearing of 19 August 2005

(Hansard page 92)

Senator Carr asked Mr Greg Williams of the Government Communications Unit, upon notice, on 19 August 2005:

1. In relation to the Workplace Relations Reform Campaign and consultant contracts, how are decisions made and what are the milestones?
2. What was the process Jackson Wells Morris and Dewey Horton went through to secure their contracts?

The answers to Senator Carr's questions are:

1. The Milestones are set out in the respective contracts, which have been tabled. Decisions are taken in accordance with the Finance Regulations, the Procurement Guidelines and where relevant, are informed by research.
2. The Public Relations consultant and Creative Advertising agency were appointed following presentations to the Ministerial Committee on Government Communications by the companies accepting the offer to pitch.

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

Hearing of 19 August 2005

(Hansard page 106)

Senator Murray asked Senator Abetz, on 19 August 2005:

Please indicate, in writing to the Committee those sections of the Auditor General's and JCPAA proposed advertising guidelines those sections that you think are already covered by your existing guidelines, those sections that you think are acceptable and those sections that you think are unacceptable?

Senator Abetz's answer to the question is – The Guidelines for Australian Government Information Activities, address all issues necessary for accountable, efficient and cost-effective delivery of information activities. The JCPAA and Auditor General's proposed guidelines offer nothing of value in addition to the 1995 Guidelines. In fact, on any reading, elements of the proposed guidelines are unworkable as noted by Mr Georgiou in dissenting from components of the guidelines entitled *Material should not be liable to misrepresentation as party political* on the following grounds:

- in a highly combative political system, materials which are totally non-partisan are open to misrepresentation as party political; and
- the factors which are used to determine whether material can be perceived as 'party political' in the JCPAA report do not provide a sufficiently clear and objective basis for assessing whether or not such a perception is valid.

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

Hearing of 19 August 2005

(Hansard page 111)

Senator Forshaw asked Senator Abetz, on 19 August 2005:

Would you agree to provide a copy of the correspondence between yourself
and the Clerk of the Senate?

Senator Abetz's answer to the question is – I am more than happy to provide a copy
of that correspondence and it is attached.



SENATOR THE HON ERIC ABETZ
Special Minister of State
Liberal Senator for Tasmania

Mr Harry Evans
Clerk of the Senate
Parliament House
CANBERRA ACT 2600

31 AUG 2004

Dear Mr Evans *Harry,*

It has been brought to my attention that you have made a submission to the Senate Finance and Public Administration Committee's inquiry into government communications campaigns in your capacity as Clerk of the Senate.

I deliberately withheld writing this letter to you to ensure that my expression of objection at your slur was communicated to you in appropriate terms and language.

I am sure that you understand that flinging highly politically charged assertions into the public arena in fact does untold damage to our institutions, and on a personal level, on those who seek to serve the public.

I note that your submission contained, amongst others, the following statement:

"It is suspected that advertising firms accept lower fees for advertisements paid for by the party in power with an assurance that more lucrative government advertising contracts will fall their way. In effect, the expenditure on the government advertising project subsidises the party-political advertising of the government party"

This is a scurrilous and slanderous suggestion. No evidence whatsoever is offered for this claim. (Albeit, it could have been made against Labor with their Bill Hunter advertisements, who was paid an exorbitant fee in the 'Working Nation' advertisements and then was seamlessly transferred free of charge into Labor's political advertising for the 96 Election). It happened once by a desperate Labor Government. It has not happened during the 8½ years of Coalition Government. Without making that distinction you have cast us all in the same mould.

As chairman of the MCGC, I have always run the committee in a proper manner. The suggestion made is completely false because the Liberal Party has not employed any advertising agency for its Federal Election campaigns since 1993. Therefore the

possibility of cross subsidisation simply cannot occur. Moreover, you directly smear me as the Chairman of the MCGC by stating that this is 'tantamount to corruption'.

The suggestion is just a base untruth. It is also a wicked slander on myself as not only the Chairman of the MCGC but as a Senator. Were I to have made this baseless allegation against any of my Senate colleagues in the Chamber, I am sure that you would be instantaneously whirling around on your chair to advise the President to have me unreservedly withdraw such a statement. As it is, I would hope that you will live up to the standards that you seek to require from others.

Yours sincerely



ERIC ABETZ

Senate Finance and Public Administration References Committee

Inquiry into Government Advertising and Accountability

13 September 2005

Questions on Notice

Senator Murray asked the following:

1. What sums did the Commonwealth government spend on advertising in (i) Australian, (ii) metropolitan, (iii) suburban, (iv) regional and (v) country area (a) newspapers, (b) radio, and (c) television in each financial year from 1995-96 to 2004-05 inclusive?
2. What criteria are used to determine the placement of advertisements, particularly with respect to local, regional and country outlets?
3. What percentage of the campaign budget allocated to newspaper advertising for campaigns costing \$100,000 or more in the years 1996-97 to 2003-04 inclusive was devoted to non-English language newspapers?
4. What percentage of the campaign budget allocated to radio advertising for campaigns costing \$100,000 or more in the years 1996-97 to 2003-04 inclusive was devoted to non-English radio?

The answers to Senator Murray's questions are as follows:

1.	(i)	(ii)	(iii)	(iv) and (v)	(a)	(b)	(c)
Year	National Press	Metropolitan Press	Suburban Press	Regional & Rural Press	Total Press	Total Radio	Total Television
1995-1996	\$1,122,316	\$6,561,126	\$329,298	\$4,942,399	\$17,174,937	\$4,797,445	\$22,117,907
1996-1997	\$902,459	\$4,957,851	\$104,276	\$3,414,330	\$11,115,501	\$4,886,653	\$11,095,737
1997-1998	\$1,530,630	\$10,252,328	\$376,127	\$14,241,609	\$22,765,408	\$6,824,281	\$24,987,883
1998-1999	\$1,166,511	\$10,815,985	\$610,498	\$2,718,053	\$21,640,157	\$6,383,727	\$23,712,917
1999-2000	\$2,173,474	\$22,683,598	\$5,504,866	\$29,969,099	\$64,282,310	\$15,649,763	\$100,602,852
2000-2001	\$1,822,583	\$15,075,546	\$2,658,917	\$14,054,503	\$35,288,521	\$15,306,422	\$74,720,627
2001-2002	\$1,139,841	\$10,182,982	\$1,316,917	\$7,654,513	\$21,292,508	\$7,579,774	\$46,450,199
2002-2003	\$407,028	\$6,335,529	\$521,008	\$4,186,833	\$12,192,161	\$5,243,663	\$27,357,719
2003-2004	\$954,692	\$9,961,453	\$512,392	\$9,182,579	\$21,909,997	\$6,196,448	\$59,077,350
2004-2005	\$1,477,246	\$9,933,890	\$706,514	\$7,089,397	\$21,149,718	\$7,454,772	\$43,199,533

1. Note As it is too difficult to separate out campaigns less than \$100,000, all campaigns placed through the Central Advertising System have been included

2. Media are selected following developmental research with the target audiences and an analysis of information available through the of various proprietary media tools used by the Master Media placement agency to inform about the media habits of the range of demographic and psychographic target audience profiles. The Master Media agency makes recommendations to the Government Communications Unit, client department and finally the Ministerial Committee on Government Communications which considers and approves media plans.

3.	%
1996-1997	2.0%
1997-1998	4.4%
1998-1999	4.4%
1999-2000	5.8%
2000-2001	4.5%
2001-2002	4.4%
2002-2003	5.6%
2003-2004	5.1%

4.	%
1996-1997	figures not available
1997-1998	figures not available
1998-1999	2%
1999-2000	13.8%
2000-2001	6.9%
2001-2002	4.8%
2002-2003	5.6%
2003-2004	9.3%

Note: Defence Force Recruiting is exempt from the 7.5% NESB requirement. Some campaigns in specific locations are not serviced by NESB press (e.g. Commonwealth Regional Information Service). For some large campaigns 7.5% expenditure would be excessive (e.g. Taxation Reform)