



Australian Government

Department of Education, Employment and Workplace Relations

## Disability Employment Services Industry Information Paper January 2012

### Overview

The Department of Education, Employment and Workplace Relations (**DEEWR**) released two Industry Information Papers in June and October 2011 with information on the arrangements for Disability Employment Services (**DES**) during 2012. This is the third such paper and builds on the information contained in the previous two papers which focused on the broader procurement processes, including the eight month extension of DES – Employment Support Service (**ESS**) contracts to 3 March 2013 and the 12 month extension for remote services.

The focus of this paper is on DES–ESS and in particular:

- tendering for employment services, and
- an overview of the transition arrangements for DES–ESS Participants and Providers that will be developed through further consultation.

Prior to the release of the second Industry Paper, the Senate referred the administration and purchasing of DES in Australia to the Senate Education, Employment & Workplace Relations References Committee for inquiry. The Committee tabled its report, with a number of recommendations, on 25 November 2011. The Senate Committee’s report can be accessed at [http://aph.gov.au/Senate/committee/eet\\_ctte/disability\\_employment/report/index.htm](http://aph.gov.au/Senate/committee/eet_ctte/disability_employment/report/index.htm).

The Government is currently considering the Senate Committee’s recommendations and will table its response early in 2012. Preparation for a Request for Tender (**RFT**) in May 2012 is continuing as scheduled.

### Who is eligible to tender for DES–ESS?

Potential Tenderers may wish to consider business arrangements that will give them the best opportunity of being awarded DES–ESS business. This may either be through the submission of a tender as an individual entity or as part of a group entity.

The following information is provided to assist Potential Tenderers in considering their arrangements before the release of the RFT. Once the RFT is released, Potential Tenderers will need to carefully consider the terms of the RFT before submitting a tender. To the extent of any inconsistency between this paper and the RFT, the terms of the RFT will apply to the tender process.

DEEWR will only contract with entities that have legal personality and have full legal capacity to contract to provide DES–ESS. Individuals operating as sole traders are considered to have legal



personality while an unincorporated organisation is not considered to be a legal person and will not be contracted by DEEWR.

A group of legal entities (Tendering Group) can tender as a Consortium, joint venture, partnership or some other form of alliance in order to deliver the services. A Tenderer will be required to specify in its tender the business model (for example, Consortium or joint venture) it proposes. Each Tendering Group must be a group of individual legal entities that lodge a tender collectively. Descriptions of various group entities that are eligible to tender are as follows:

### **Consortium**

A Consortium is a group of individual legal entities that lodge a tender collectively. A partnership does not constitute a Consortium. If a group of entities incorporates, it would tender as the incorporated entity, not as a Consortium.

The Consortium must appoint a lead member entity to act as agent for the other member entities. The lead member entity must be authorised to negotiate, act on behalf of and contractually bind each member of the Consortium. Each member of the Consortium must confirm the authority of the lead member entity in writing as required by DEEWR at the time of the release of the RFT.

### **Joint Venture**

A joint venture is a business enterprise in which two or more legal entities enter into a temporary partnership through the use of a joint venture agreement for the purpose of delivering the services.

### **Partnership**

A partnership is an agreement entered into by two or more legal entities in which each agrees to provide a part of the capital and or labour for a business enterprise, and by which each shares a defined proportion of profits and losses.

### **Subcontracting**

Some Tenderers may want to deliver services through Subcontractors. Providers can only subcontract services with the written permission of DEEWR and will remain responsible for the provision and quality of services they subcontract as set out in the Deed with DEEWR. Tenderers must ensure Subcontractors meet the same requirements of successful Tenderers.

### **Other Alliances**

There may be other alliance arrangements between corporate entities that have not been contemplated by DEEWR. Provided the arrangements meet the group tendering requirements, DEEWR will be open to the delivery of services through those arrangements.

Note: Employees and agents of DEEWR and the Department of Human Services (**DHS**) are precluded from tendering or assisting an entity with tendering, and an entity that is owned in whole or in part, or controlled by such individuals, is also precluded from tendering. This does not include persons who are, or may be, regarded as authorised delegates or agents of DEEWR or DHS under existing employment service arrangements or arrangements for the administration of the social security law, for example, Employment Services Providers currently

contracted with DEEWR or entities currently contracted with DHS to perform Centrelink functions.

DEEWR will only accept a tender from a foreign company if it is registered under Part 5B.2 of the *Corporations Act 2001* (Cth).

Please note Potential Tenderers must make their own independent assessments and investigations and obtain their own legal, business and other professional advice when deciding whether to tender for business.

### **Assistance for Tenderers**

In addition to the Industry Information papers and the Exposure Draft RFT, which will contain detailed information on how to submit a tender, a simple guide to tendering for individuals and groups, who may not be familiar with a tender process, is being developed. The guide will include information on addressing and submitting a tender. The Guide will be available on the DEEWR website after the release of the Exposure Draft RFT at [www.deewr.gov.au/Employment/EmploymentServicesProcurement/Pages/default.aspx](http://www.deewr.gov.au/Employment/EmploymentServicesProcurement/Pages/default.aspx).

Tenderers should note that it is a requirement of all DEEWR employment requests for tender that the Tenderer's response be:

- created using the All Purpose Evaluation Tool (APET) eResponse (available from the Employment Services Purchasing website at [www.deewr.gov.au/esprocurement](http://www.deewr.gov.au/esprocurement)), and
- lodged electronically through AusTender at [www.tenders.gov.au](http://www.tenders.gov.au).

Once the RFT is released, organisations wishing to tender will need to register with AusTender to access all RFT documentation. Registration is available free of charge through the AusTender website at [www.tenders.gov.au](http://www.tenders.gov.au). A tool within AusTender is available to allow Potential Tenderers to practise lodging tenders.

**It is vital that the Tenderer makes themselves familiar with these systems and processes.**

DEEWR is also developing a tool that will allow Potential Tenderers to practise creating an APET eResponse. Once this has been developed, details of where to find the tool, and how to use it, will be available at [www.deewr.gov.au/Employment/EmploymentServicesProcurement/Pages/default.aspx](http://www.deewr.gov.au/Employment/EmploymentServicesProcurement/Pages/default.aspx).

Potential Tenderers who wish to be notified when this tool is available can provide their email addresses to the Employment Services Purchasing Hotline on 1300 733 514 or via email to [esprocuring@deewr.gov.au](mailto:esprocuring@deewr.gov.au). The Hotline can also provide assistance on submitting a tender.

**DEEWR strongly recommends that Potential Tenderers, who have not previously used APET or AusTender to lodge tenders, avail themselves of the opportunity to practise creating responses using APET and lodging tenders through AusTender.**

### **Star Ratings – Public Release and Tender Assessment**

As detailed in previous Industry Information papers, the DES–ESS Star Ratings at 31 March 2012 will determine what DES–ESS business is put to open tender. That is:

- DES–ESS Providers with a four or five Star Rating (at the ESA level) will be offered a Deed extension to 30 June 2015, and
- DES–ESS Deeds with Star Ratings of three or below at the ESA level (including where there is insufficient data to generate a Star Rating) will have the business put to tender.

To ensure transparency in the tender process, the March 2012 Star Ratings will be made publicly available and published on the DEEWR website at [www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Pages/DESStarRatings.aspx](http://www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Pages/DESStarRatings.aspx) and on the Labour Market Information Portal at [www.deewr.gov.au/lmip](http://www.deewr.gov.au/lmip) in late April/early May 2012.

Providers should note that DEEWR will use all available performance data in the assessment of any tenders received. This may include the **30 June 2012** Star Ratings and any other available performance data.

### **Transition Arrangements**

The Transition Period will commence from 1 November 2012. In preparation for the smooth transfer process for Participants, employers and Providers the following transition objective and principles have been developed, ready for consultation.

The objective of the transition is a smooth transfer to the future contracting arrangements that, has minimal disruption to Participants, employers and Providers, and maintains continuity of service.

DEEWR will manage the DES–ESS transition process using the following principles:

- All Participants will:
  - remain connected with their current DES–ESS Provider, or
  - be referred to a new or gaining DES–ESS Provider taking into account their individual needs and circumstances.
- Transition activities must support continuity of DES–ESS services.
- Transition will continue to support connections between employers and Participants where possible.
- Transition activities will support the future employment services arrangements, while honouring existing contractual obligations.

DEEWR will consult with the sector on transition arrangements through the Exposure Draft and Consultation Sessions as outlined in the following section. DEEWR will also establish a Sub-Working Group from the existing DES Reference Group representatives to ensure transition is managed as sensitively as possible.

### **Exposure Draft RFT and Consultation Sessions**

The Exposure Draft RFT is scheduled for release in late February 2012. To support the release of the Exposure Draft, DEEWR will conduct Consultation Sessions in capital cities and selected regional centres from 27 February to 7 March 2012. There will also be one web conferencing session. Advertisements will be placed in major national and regional newspapers advising of the release of the Exposure Draft in February 2012 and the arrangements, including locations and timing, for attending the Consultation Sessions.

Stakeholders can provide feedback on the Exposure Draft directly at the sessions or through email to the Employment Services Hotline. Feedback will be sought on procurement processes, selection criteria and weightings, and the structure and clarity of the Exposure Draft, noting that the DES program settings are generally remaining stable through this procurement process. This feedback will be taken into consideration by DEEWR and questions and answers will be published on the DEEWR procurement website. The RFT is scheduled to be released in late May 2012 and is expected to be closely based on the Exposure Draft. Potential Tenderers should be careful to base their response on the RFT. To the extent that there is any inconsistency between the terms of the Exposure Draft and the RFT, the terms of the RFT will apply to the tender process.

## DES Tendering and Contract Extension - Indicative Timetable

Indicative Date	Program(s)	Action
Late February 2012	Disability Management Service, Employment Support Service, National Panel of Assessors (NPA), JobAccess (JA), National Disability Recruitment Coordinator (NDRC)	Formal extension offers sent to Providers and acceptances returned to DEEWR
Late February 2012	Employment Support Service	Exposure Draft of the Request for Tender released
27 February to 7 March 2012	Employment Support Service	Consultation Sessions
Late April/early May 2012	Employment Support Service	31 March 2012 Star Ratings released
Late May 2012	Employment Support Service	Request for Tender released
Early July 2012	Employment Support Service	Request for Tender closes
1 July 2012	DMS, Employment Support Service, NPA, JA, NDRC	Deed Extensions commence
Late October 2012	Employment Support Service	Announcement of Request for Tender results
Early November 2012	Employment Support Service	Transition commences
4 March 2013	Employment Support Service	New DES–ESS Deeds commence

### Useful Information

- Information on ESAs, including maps, and DES data at the ESA level can be found at: [www.deewr.gov.au/lmip](http://www.deewr.gov.au/lmip).
- DES Star Ratings can be found at: [www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Pages/DESStarRatings.aspx](http://www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Pages/DESStarRatings.aspx).
- Further information on DES Star Ratings can be found at: [www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Documents/UnderstandingDESStarRatings.pdf](http://www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Documents/UnderstandingDESStarRatings.pdf).
- A copy of the *Request for Tender for Disability Employment Services 2010 – 12* can be found at: [DES RFT 2010-12](#).
- The *Disability Employment Services Deed 2010 – 2012* can be found on DEEWR's Freedom of Information Disclosure Log at: [DEEWR FOI Disclosure Log](#).
- 'The Future of Remote Participation and Employment Servicing Arrangements' paper is available at [www.deewr.gov.au/rsr](http://www.deewr.gov.au/rsr).
- The Senate Committee report into the administration and purchasing of Disability Employment Services is available at [http://aph.gov.au/Senate/committee/eet\\_ctte/disability\\_employment/report/index.htm](http://aph.gov.au/Senate/committee/eet_ctte/disability_employment/report/index.htm).
- Further information on tendering using AusTender can be found at [www.tenders.gov.au](http://www.tenders.gov.au).