

Jobs Australia Submission to the Productivity Commission:

**Commissioned Study into the Contribution of the Not For Profit
Sector**

May 2009

Introduction

Jobs Australia is a national peak body for more than 275 nonprofit organisations which deliver employment and related services for unemployed people in Australia. Many of our members have operated continuously for more than 30 years. Jobs Australia is funded and owned by its member organisations and operates to help our members make the most effective use of their resources and promotes the needs of unemployed people for the services and support that will help them to participate fully in society. Jobs Australia provides a wide range of services to its member organisations and provides employer-side industrial relations and human resources management services to another approximately 800 nonprofit community organisations throughout Australia through our Community Sector Industrial Relations Service.

Jobs Australia values collaboration and cooperation with our colleague organisations in the nonprofit sector and is an active member of the Australian Council of Social Service (ACOSS) and the National Roundtable of Nonprofit Organisations.

A number of our colleague and member organisations have provided submissions to the Productivity Commission's study into the Contribution of the Not for Profit Sector. This submission does not canvass all of the issues covered in the Discussion Paper, but rather focuses on a number of issues concerning nonprofit organisations in government funded employment services sector and of particular interest and concern to Jobs Australia.

An important issue for consideration by the Commission in the course of its study is the extent to which the nonprofit sector can and does utilise its own resources and capacities to enhance its own efficiency and effectiveness and, in that context, the contributions made by peak organisations.

Jobs Australia commends the Commission on the forward-looking approach to the study and hopes and fully expects that the study will illuminate the substantial and multi-dimensional contribution which nonprofit organisations make to the Australian economy, to Australian society and to individual citizens and communities. The study also provides an important opportunity to assist civil society organisations in Australia, in their own right, and with the right kinds of facilitation and assistance from government and business sectors, to set a course for a vibrant and sustainable long term future.

We look forward to further opportunities to provide input to the Commission's study as it progresses.

Capacity to innovate and to use resources to best effect

The capacity of Jobs Australia's member organisations to innovate and to use available resources to best effect goes well beyond the relatively narrow confines of their delivery of government-funded employment services. The great majority of our members offer and deliver services in the local communities they serve across a wide array of government-funded and other programs and their own initiatives. To their great credit, our members have survived seemingly endless and constant change in the iterative development of employment services and other programs over the last three decades and more and have managed to maintain a strong focus on their collective mission to serve disadvantaged unemployed people.

Over the course of the 11 years' of operation of the contracted out "market" model for delivery of public employment services in Australia, nonprofits providers of the relevant services came more and more to be seen, identified and treated as providers of government services. In doing so, many of our members risked losing their identity as autonomous nonprofit organisations which happen to deliver government services but which also play important other roles as advocates, innovators and instigators of other activities and services. This is a trend our colleague organisations involved in

other areas of government-funded service delivery have also experienced to varying degrees over the last decade. In order to celebrate and document the much wider and deeper contribution which our members make to disadvantaged people and communities Jobs Australia published a set of case studies of 10 of our member organisations: *10 Forces at Work – How 10 nonprofits tackled unemployment and more in their local communities*. A copy of the publication is attached to this submission. The case studies tell the stories of nonprofit organisations created to help people to learn skills and find jobs (except for the Asylum Seekers Resource Centre in Melbourne, which added an employment program after being created to meet more basic needs). All of them manifest a protean quality, adapting and making use of new opportunities, responding to new challenges, trying new things to work out what they do best.

It should be emphasised that the 10 organisations described in the publication represent only examples of similar stories which can be told about a large number of our member organisations, all of whom deliver much more than employment services contracts and add and leverage significant additional value for citizens and communities from the government funds and other resources at their disposal.

Arrangements for government funded service delivery

As noted above, Jobs Australia's members have been deeply and fully engaged in the iterative and ongoing development and operations of Australia's contracted out public employment services market since it commenced in 1998. We support and strongly endorse the observations made by McGregor-Lowndes (2008 pp. 50-51) which are set out on page 36 of the Discussion Paper.

Competition between our members in tendering processes has had a marked and significant negative impact on the extent to which they share good and best practice and co-operate and collaborate with one another.

While much is made rhetorically of the so-called "partnership" relationship between government departments as purchasers and nonprofit organisations as providers, the nature of tendering and purchasing arrangements and contractual requirements often reflect relationships which are much more akin to master servant relationships. Jobs Australia contends that the new public management approach to relationships between government and the nonprofit sector, which seeks to minimise public sector risk and to maximise public sector control is not conducive to effective "partnership" approaches and is in urgent need of reform.

The costs and complexity of competitive tendering as an effective means of procurement of government services also warrants reform. In addition to the huge and substantial costs of preparation of tenders, which will inevitably exclude smaller nonprofits from involvement, they distract provider organisations for lengthy periods from service provision and can yield results which involve significant and costly market disruption. In mature "markets" it should be possible to find alternative and cleverer approaches to procurement which maintain necessary competition, choice and focus on outcomes and keep transaction and other costs to a necessary minimum.

In some areas of government funded service delivery, and the Australian Job Network is a prime example, emphasis on outcomes and nonprofit (and for profit) flexibility about processes has iteratively shifted over the past 11 years since its establishment to extraordinary degrees of prescription and control over processes (which have come to be referred to as "nano-management") by the purchasing department. Associated with this shift is a significantly increased and costly contractual reporting and regulatory burden and an associated significant diversion of attention and resources away from service provision and towards contract administration and compliance.

In a somewhat frank submission, which we put in February 2008, to Employment Participation Minister, the Hon Brendan O'Connor, at the outset of his review of the former government's Job Network, Jobs Australia observed:

"There is critical need to reform the system so that is designed around the needs of the many hundreds of thousands of people it affects, rather than a ridiculously complex set of contractual and other rules and business process models and information technology systems which constrain the people working at the front line and limit their ability to exercise their judgement and use discretion in the practice of engaging and working effectively with disadvantaged people. Much more attention needs to be given to the crucial role the front line workers at Centrelink and employment and related services play. We need to ensure the information technology cart is behind the program horse and not in front of it. The information technology system needs substantial and radical trimming down and simplification which needs to be undertaken with a primary eye on the human interface end of the system and not the contracts and program architecture. This will require a much greater emphasis on and attention to the ways in which unemployed citizens experience and navigate the system and the ways in which they and the front line workers interact.

We need to ensure we remove the myriad of unnecessary and unproductive bureaucratic intrusions and controls which have iteratively been accreted onto the system since its inception nearly ten years ago. If perchance the architects of the original Job Network "radical market experiment" were demised, they would be turning in their graves about the extent to which the fundamental pillars of their design have been so distorted and corrupted in the name of bureaucratic command, control and Senate estimates hearings posterior protection (so to speak). Not only does all the present nano-management of the system impede its success, it imposes significant and unnecessary costs to providers and to the taxpayers. Doing away with large swathes of inappropriate and unnecessary regulation and control of process and administration can be achieved without losing necessary levels of accountability for the level of expenditure of public funds involved.

Another aspect of the system which requires fundamental reform is the governance of the system. Current contracts are onerous, one-sided and ridiculously complex and prescriptive. Contract management and performance management processes are in many ways oppressive and difficult for providers to manage and respond to and load significant and often unnecessary costs and impositions on providers. Investigations have been sometimes very heavy handed and conducted with little regard for legal rights of those under scrutiny, and funds in dispute unilaterally recovered without due and just process. The purchaser has used its purchasing power to silence dissent and debate about the system and its governance and management. Providers have been frequently required to spend inordinate amounts of time and money justifying expenditures which have amounted to far less than the costs of justification.

Consultation often seems to be conducted in name rather than reality and opportunities for frank and respectful dialogue and debate about ways of improving and enhancing the system are less frequent. The pursuit in various tribunals and courts of tighter and tighter interpretation of income support laws has been arguably oppressive and unconscionable and may well have caused serious harm and injury to some of the recipients who were the subject of an overzealous and obsessive approach taken or at least endorsed by the former government. The glowing rhetoric of partnership of the former government's Reforming Employment Assistance manifesto is but a distant memory in terms of present (or at least immediate past) realities.

The government should consider the adoption of regulatory and consultative best practice such as that promoted and developed by the UK Department for Business Enterprises and Regulatory Reform (<http://bre.berr.gov.uk>) and the consultative practices of the UK Department of Work and Pensions (<http://www.dwp.gov.uk>)."

Jobs Australia recognises and appreciates that the government has taken a number of positive steps to address these issues in its reform of the employment services system and in its mooted approach to regulatory reform and building relationships with the sector more generally.

The Whitlam Institute and the Public Interest Advocacy Centre in New South Wales is undertaking research into the nature of government contracts with nonprofits organisations - with financial assistance provided by the University of Western Sydney and Jobs Australia. That research is almost completed and the relevant report is to be provided to the Commission.

In the course of consultations conducted by the government on the reforms which are being implemented through Jobs Services Australia, Jobs Australia also expressed the view that consideration should be given to establishing a separate regulator for the employment services market in Australia. We note and accept that the government saw fit not to adopt our view but contend that there continues to be a good case for a separate regulator which could, amongst other roles, provide oversight and direction to the Department on procurement practices and decisions, act as an arbiter of disputes between the Department and providers, and keep a weather eye on regulatory and red tape issues.

Despite the government's and the Department's best intentions in terms of improving relationships with providers, there remains considerable imbalance and asymmetry in the relationship between the Department and individual providers which is reflected in the new contract for employment services and in other ways.

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