



**Australian Government**

**Department of Social Services**

# **2013 Business Review and Reallocation Process and Extenuating Circumstances Submissions**

## **Industry Information Paper**

**DISABILITY EMPLOYMENT SERVICES –  
DISABILITY MANAGEMENT SERVICE**

## GENERAL INFORMATION AND INDICATIVE TIMELINE

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28 October 2013	Release of this industry information paper and the extenuating circumstances provider submission proforma
From 30 October 2013	Release of September 2013 Star Ratings to CEOs
31 October 2013	<b>Extenuating circumstances and business reallocation webinar session</b> Providers who wish to attend this session should make a booking through the Employment Services Purchasing Hotline - <a href="mailto:espurchasing@deewr.gov.au">espurchasing@deewr.gov.au</a> or 1300 733 514 between the hours of 9.00 am and 5.00 pm AEDT Monday to Friday
7 November 2013 5.00 pm AEDT	<b>Closing date and time for extenuating circumstances submissions</b>
From late December 2013	Announcement of business reallocation results
Late January 2014	Dispatch of Deed offers and final execution of Deeds
Early March 2014	Transition of participants completed

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## INTRODUCTION

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Disability Employment Services – Disability Management Service (DES-DMS) providers are currently contracted under the Disability Employment Services Deed (the Deed) to deliver DES-DMS until 30 June 2015. In accordance with the terms of the Deed, the Australian Government will be undertaking a mid-term business review and reallocation process in relation to DES-DMS (the business review and reallocation process). Following recent changes the DES Programme is now managed within the Department of Social Services (the Department). However, the business review and reallocation process will continue as previously advised.

This industry information paper is intended to assist DES-DMS providers in better understanding the arrangements and requirements for the business review and reallocation process, by outlining the:

- principles and processes that will determine whether business will be reallocated
- timelines involved in the process
- business considerations for DES-DMS providers during the process.

This industry information paper is also intended to assist in ensuring that DES-DMS providers are aware of, and able to meet relevant timeframes, particularly in relation to extenuating circumstances submissions and expressing interest in and otherwise accepting offers of additional business.

## SCOPE

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Providers will be aware from correspondence issued by the former Department of Education, Employment and Workplace Relations (DEEWR), that the business of DES-DMS providers with a 1 or 2 Star Rating or with insufficient data for a Star Rating at the Employment Services Area (ESA) level at the end of September 2013 will be in scope for reallocation and subject to the business review process.

### **Star Ratings**

For the purposes of the business review and reallocation process, ESA level data and the 2010 Performance Framework will be used to determine whether the business of a provider at the ESA level will be in scope. This Performance Framework takes into account historical performance data from 1 March 2010 onwards in determining Star Ratings, and the Department considers it to be well understood by providers and stakeholders.

### **Remote Business and Star Ratings**

Due to the commencement of the Remote Jobs and Communities Programme, DES-DMS ceased to operate in remote areas from 1 July 2013. Where, prior to 1 July 2013, providers had business in both remote and non-remote areas of an ESA, performance data from those remote areas will be used in determining the September 2013 Star Ratings.

## PROCESS SUMMARY

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From 30 October 2013, the CEO's of DES-DMS providers will receive their organisation's September 2013 Star Ratings.

### **Extenuating circumstances process**

Following receipt of the Star Ratings, providers with business that has been determined as 'in scope' for reallocation may make submissions regarding any extenuating circumstances which may have impacted on their performance in the September 2013 Star Ratings.

Where the Department determines to accept that the extenuating circumstances submitted by a provider may have caused the provider's performance to be 'in scope', some or all of a provider's in scope business may be exempted from reallocation. The decision to exempt or not exempt business on the basis of an extenuating circumstances submission is final. Providers will be notified whether any or all of their business has been exempted before business reallocation offers are made to any provider. See the 'Extenuating Circumstance Submissions' section of this paper for further information.

### **Business assessment process**

Following the assessment of any extenuating circumstances submissions, the next step in the process will be to assess relevant in scope business in accordance with business review and reallocation principles, as set out in the 'Business Review and Reallocation Principles' section of this paper.

This assessment will consider a range of performance factors, service delivery issues and conditions applying to the delivery of the business. The assessment of these matters is based on information held by the Department. DES-DMS providers may not provide any further information or input in relation to these matters.

### **Business reallocation process**

Following the business assessment process, the Department may determine to reallocate some or all of the in scope business that has not been exempted from reallocation to higher performing DES-DMS providers.

Where the Department has determined that a provider may retain some of its business in a particular ESA, and when the provider agrees to retain such business, then to facilitate this, the provider may need to close one or more of their Sites in the relevant ESA. Where this occurs, it is also expected that the provider provide the Department with sufficient assistance and cooperation to enable participants at that Site to be transferred, including to another Program Provider.

All 'in scope' providers (whether they submitted extenuating circumstances submissions or not) will be advised of the outcome of the business review and reallocation process via correspondence from the Department. It is anticipated that this will occur in late November or early December 2013.

All providers that will be offered additional business as a result of the business review and reallocation process will be advised in accordance with the process and indicative timeframes set out under the 'Additional Generalist Business' and 'Additional Specialist Business' sections of this paper.

It is anticipated that the entire business review and reallocation process, including the transfer of all affected participants to new providers, will be completed by early March 2014.

## BUSINESS REVIEW AND REALLOCATION PRINCIPLES

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In determining whether to reallocate business, regard will be given to the business review and reallocation principles.

The business review and reallocation principles are based on the Commonwealth Procurement Rules (CPRs) under the *Financial Management and Accountability Act 1997*. The CPRs identify value for money as the overriding principle underpinning Australian Government procurement activities. The three supporting principles of value for money are:

- encouraging diversity and competition
- efficient, effective, economical and ethical use of resources
- accountability and transparency.

Value for money is the overriding principle underpinning the business review and reallocation process and will be defined as the optimum combination of factors that:

- provide participants, including those most disadvantaged in the labour market, and employers with access to high performing DES-DMS services
- provide geographic coverage to ensure participants are able to access providers' sites
- meet the needs of specific participant groups and local labour markets
- where appropriate, deliver participant choice and a diversity of providers, including through a mix of small, medium and large organisations
- maintain provider's financial and organisational capacity to deliver optimal services to participants after any expansion, and
- appropriately manage risks for the Australian Government.

## EXTENUATING CIRCUMSTANCES SUBMISSIONS

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During the business review and reallocation process, in scope providers may make submissions regarding any extenuating circumstances which may have impacted on their September 2013 Star Ratings.

Note: Providers are not required to lodge submissions and should not lodge submissions unless they believe that extenuating circumstances apply.

### What are 'extenuating circumstances'?

For the purposes of the business review and reallocation process, extenuating circumstances are circumstances that occurred outside the provider's control and which would not have already been taken into account as part of the September 2013 Star Ratings.

Examples of extenuating circumstances may be disasters confined to the organisation that damaged a provider's operational capacity, or cultural events affecting a community, which consequently placed the provider in scope for review.

When making an extenuating circumstances submission(s), providers must demonstrate that the extenuating circumstances had a unique and negative impact on their capacity to deliver

outcomes to participants rather than a broader impact, which would have affected other providers in the ESA.

Factors that will not be considered to be extenuating circumstances include:

- situations that are internal to a provider's organisation, such as a change of management or a turnover of staff within the organisation
- situations that would have affected all providers in a region, such as widespread flooding, and
- circumstances which are already incorporated in the Star Ratings model, such as changes in local labour market conditions or participant characteristics (for details on the Star Ratings methodology, please refer to the DES Star Ratings Methodology Advice on the Provider Portal).

#### **i. Example One**

##### *Situation:*

A fire at the provider's premises destroyed the building and all assets. An extended period elapsed before the provider was able to source alternative premises and new equipment. Following the provider's acquisition of new premises, it took some time before the organisation was operational. The displacement of job seekers over this extended period potentially affected the provider's performance.

##### *Extenuating circumstances submission:*

In the above scenario, the fire may be unique to the provider and may have had a negative impact on its capacity to deliver services for an extended period. However, the provider would still have to demonstrate that this was the reason for its Star Rating. For example, the submission may need to include information that confirms the length of time the provider took to re-establish itself in new premises, and to become operational, was reasonable. It should also indicate the various circumstances that occurred from the time of the fire until it was again operational and how these issues negatively affected its performance.

In assessing the submission, the Department would take a range of issues into account. These may include considerations such as:

- the Star Ratings the provider had achieved over previous performance periods and whether these had been trending up or down
- the extent to which the provider's Star Rating and Star Percentage changed over the period in question
- the difficulty (or ease) of acquiring new premises
- the amount of time the provider was affected by the circumstances, or
- whether there were other options available to the provider, for instance, whether participants could have been serviced from other sites or outreach locations within the ESAs as an interim measure.

The Department may also take into account any other relevant information which is available.

#### **ii. Example Two**

##### *Situation:*

The major employer in a regional centre closes with a significant negative effect on employment in the area.

### Extenuating circumstances submission

This would be considered a situation that would have affected all providers in a region, and as such, would be unlikely to be accepted as the reason for a lower Star Rating.

### **Minimum requirements for an extenuating circumstances submission**

To make an extenuating circumstances submission(s) the minimum requirements set out below and in this section, as relevant, must be satisfied:

- providers must make a submission using the extenuating circumstances provider submission proforma ('the proforma') which is available from the business review and reallocation page of the DES Provider Portal and is attached as a separate document to this paper
- a separate submission must be made for each ESA and Specialisation for which extenuating circumstances are being claimed
- each submission must not exceed a maximum of 8,000 characters (including spaces),
- completed submissions must be returned to the Employment Services Purchasing (esPurchasing) Hotline mailbox ([espurchasing@deewr.gov.au](mailto:espurchasing@deewr.gov.au)), and
- each submission must be received by **5.00 pm AEDT Thursday 7 November 2013**.

### ***Extenuating circumstances proforma***

The proforma will be available before the September 2013 Star Ratings are released.

In completing the proforma, providers must answer all relevant questions as required by the Department. Note, graphs or tables submitted as part of the proforma or outside of the proforma will not be considered.

When submitting the proforma, providers should not print or PDF the document to sign it before emailing the completed document to the esPurchasing Hotline. Where the signatory is required, providers should type in the name of the person who has authorisation (this will be considered the signatory) to submit the extenuating circumstances then save the proforma and email it to the esPurchasing Hotline ([espurchasing@deewr.gov.au](mailto:espurchasing@deewr.gov.au)).

### ***Timing***

Further to the above, all extenuating circumstances submissions:

- must be sent to the esPurchasing Hotline ([espurchasing@deewr.gov.au](mailto:espurchasing@deewr.gov.au))
- may be sent from the release of the September 2013 Star Ratings on 30 October 2013, and
- must be received by 5.00 pm AEDT on Thursday 7 November 2013.

Providers may wish to consider preparing submissions in advance using the proforma where there are concerns that:

- their business is likely to be in scope and there are extenuating circumstances which may have impacted on their September 2013 Star Ratings, and



- they will have difficulty meeting the timeframe for making extenuating circumstances submissions.

Once providers have submitted their extenuating circumstances submissions, they will receive an automated response email from the esPurchasing Hotline mailbox stating that their email has been received. It is recommended that providers save the auto-reply email.

Any providers that have not received a confirmation email within 24 hours of submitting their extenuating circumstances submission should contact the esPurchasing Hotline by phone on 1300 733 514 to confirm that the submission was received.

**Please note the short timeframe for returning extenuating circumstances submissions. Please also note that any extenuating circumstances submissions provided after the closing date and time may not be considered.**

### ***Virus Checking***

In submitting a submission electronically, all providers warrant that they have taken reasonable steps to ensure that the response file is free from computer viruses, worms or other disabling features that may affect computing environments. Documents found to contain viruses, worms or other disabling features may be excluded from the assessment process.

### ***Duplicate Submissions***

Providers that submit duplicate or multiple responses, prior to the closing date and time must notify the esPurchasing Hotline in writing and advise which submission is the final and completed submission. In doing so, providers must provide their legal name, ABN, ESA, Specialisation and the time and date of the new and any previous submissions. Where a provider fails to provide such notification to the Department through the esPurchasing Hotline, the Department will proceed with the latest received submission.

### ***Unintentional Errors***

The Department may seek clarification from providers about errors and providers may be given the opportunity to correct unintentional errors on the form. The Department may also seek clarification from providers about any other matter relevant to the process.

### **Exclusion of extenuating circumstances submissions**

All extenuating circumstances submissions will initially be assessed to ensure they meet all minimum requirements set out above. Where a submission does not meet any of these minimum requirements, including for instance where the submission is incomplete, late or has been provided in an incorrect format (for example, is not on the extenuating circumstances proforma), the submission may, at the Department's discretion, be excluded from further consideration.

## ROLES AND RESPONSIBILITIES

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Departmental staff ('assessors') based in State and Territory Offices with appropriate expertise, training and regional knowledge of provider's business will be involved in all stages of the business review and reallocation process, including the extenuating circumstances process, the business assessment process and business reallocation process (see the 'Process Summary' section for further information on each of these processes).

The assessors will consider all submissions regarding extenuating circumstances, review all business in scope and make recommendations to a Business Review and Reallocation Committee (the Committee) on whether to reallocate some or all of the business to appropriate higher performing DES-DMS providers or exempt the business from reallocation.

Each recommendation to the Committee will be made based upon supporting evidence.

The Committee will oversee the entire business review and reallocation process. The Committee will review each of the recommendations made by assessors and will accept or reject the recommendations before making a final recommendation to the Delegate.

The Delegate will consider the recommendations and make all final decisions on whether to reallocate business.

A probity adviser has been appointed for the business review and reallocation process. The probity adviser will observe and monitor, but will play no role in the process.

## ADDITIONAL GENERALIST BUSINESS

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Additional business will be offered to DES-DMS providers on the basis of their performance and capacity to deliver additional business. Relevant providers will be asked to indicate whether they would be prepared to accept or decline any such offer, on an "all or nothing" ESA basis. The Department's request and the provider's response are not legally binding on either the provider or the Department.

The first round of this 'expression of interest' process will be sent to relevant DES-DMS providers in early December 2013. Any letter sent to providers for this purpose will include advice about the provider's current and proposed business share in each relevant ESA, and will also require the provider to indicate their preparedness to accept or decline any such offer, if made, **within five (5) business days**.

**Please note the short timeframe in relation to relevant DES-DMS Providers responding to any request indicating their preparedness to accept an offer of additional business, if made.**

Where a provider indicates that it is not prepared to accept an offer of additional business or where a provider does not respond to an offer of additional business within the required timeframe, the Department may, in its absolute discretion, determine to:

- write to another high performing DES-DMS provider in the relevant ESA or an neighbouring ESA, for the purposes specified above. Note: any such providers must also

indicate their preparedness to accept or decline any such offer if made, within five (5) business days, or

- undertake gap filling exercises to find an appropriate new provider.

Note: for the avoidance of doubt, where it has been determined that in scope business will be reallocated, that business will not remain with the original provider.

## **ADDITIONAL SPECIALIST BUSINESS**

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Specialist business will be offered to DES-DMS providers on the basis of their performance with the specialist cohort and capacity to deliver additional business to that cohort. The same process and timeframe as set out above under the 'Additional Generalist Business' heading will apply.

Specialist business will be offered as specialist business in the first instance. Where appropriate, the Department may consider offering specialist business under a generalist contract to providers with demonstrated success in servicing the specialist cohort.

## **PREPARING FOR ADDITIONAL BUSINESS**

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The Department notes that some organisations commence preparations for Christmas closedown during early December, however given the timeframes outlined above, higher performing DES-DMS providers may wish to prepare for an offer of additional business which may be made during that period.

Such providers are encouraged to commence considering whether, if they are offered additional business, internal management processes require particular preparations. For example, providers may need to schedule governing committee meetings during this time to ensure that key decision makers remain available at this time.

## **THE EMPLOYMENT SERVICES PURCHASING HOTLINE**

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The esPurchasing Hotline ([espurchasing@deewr.gov.au](mailto:espurchasing@deewr.gov.au)) can be contacted on 1300 733 514 between the hours of 9.00 am and 5.00 pm AEDT Monday to Friday (excluding ACT and national public holidays).