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Our reference
AAG TMH 03 1377 1025

Mr Scott Gregson
Acting General Manager
Adjudications
Australian Competition & Consumer Commission
470 Northbourne Ave
DICKSON ACT 2602

FILE No:	23 March 2005
DOC:	D05/13313
MARS/PRISM:	

Dear Mr Gregson

Department of Human Services– Exclusive Dealing Notification

We act for the Department of Human Services and enclose the following on behalf of our client:

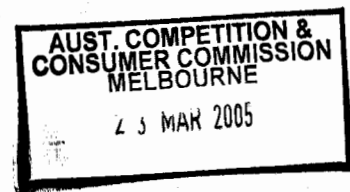
1. Notification of Exclusive Dealing (Form G);
2. Submission in support of the notification under s 93(1) of the *Trade Practices Act 1974* (Cth); and
3. Our cheque for \$1,000 in respect of the filing fee for the third line forcing notification.

Please contact Therese Hallcroft or myself if you have any queries in relation to the attached notification.

Yours sincerely



Ayman Guirguis
Partner
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COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 – Sub-section 93 (1)
 EXCLUSIVE DEALING:
 NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in subsection 47 (2), (3), (4), (5), (6) or (7), or paragraph 47 (8) (a), (b) or (c) or (9) (a), (b), (c) or (d), of that Act in which the person giving notice engages or proposes to engage.

1. (a) Name of person giving notice Director of Housing (DoH), Office of Housing, Department of Human Services (OoH).
- (b) Short description of business carried on by that person The OoH provides a range of housing assistance programs to Victorians including, direct tenure public rental housing, community-managed housing and home ownership assistance. The Public Tenant Employment Program's main objective is to create employment for public housing tenants through DoH contracts. This provides an opportunity for disadvantaged people (public housing tenants) to re/enter the workforce.
- (c) Address in Australia for service of documents on that person Blake Dawson Waldron Level 39, 101 Collins Street Melbourne Victoria 3000 Australia.
2. (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates The notice relates to the Public Tenant Employment Program (PTEP) which is a DoH initiative to create employment and training strategies for public housing tenants, by requiring contractors to employ public tenants as a component of their workforce on DoH contracts.
- (b) Description of the conduct or proposed conduct In order to bid for an DoH contract, tenderers will be required to demonstrate their intention to employ public tenants as a component of their workforce. The tenderer will also be required to provide minimum training requirements to these employees.
3. (a) Class or classes of persons to which the conduct relates:
 - DoH
 - Public tenants
 - Building, maintenance, cleaning, gardening and painting contractors who bid for OoH work.

(b) Number of those persons-

- (i) At present time, It is anticipated that this will affect approximately 8 Contractors and 50 public tenants over the next 3 Months
- (ii) Estimated within the next year, 120 public tenants per annum and 18 maintenance and building contractors

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses

The names of the contractors will only be known after results of tender processes, and the names of public tenants will not be known until they are recruited

4. Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice Mr Ayman Guirguis, Blake Dawson Waldron, Level 39, 101 Collins Street, Melbourne, Victoria 3000 Australia.

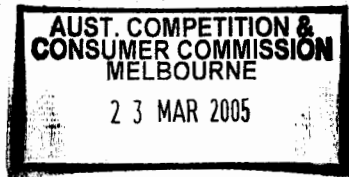
Dated 23 March 2005

Signed by/on behalf of the person giving this notice

PP W. Kellerman
.....
(Signature)

Ayman Guirguis
.....
(Full Name)

Partner, Blake Dawson Waldron
.....
(Description)



**SUBMISSION TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION (ACCC)
IN SUPPORT OF A NOTIFICATION UNDER SECTION 93(1) OF THE *TRADE PRACTICES ACT 1974*
(Cth)**

1. Introduction

This submission is in support of a notification under section 93(1) of the *Trade Practices Act 1974* (Cth) (TPA) in relation to conduct that potentially falls within sub-sections 47(6) or (7) of the TPA. Accordingly, the relevant test to be applied by the Commission is set out in sub-section 93(3A) of the TPA, whereby the ACCC assesses whether the public benefits associated with the relevant conduct outweigh any likely public detriment.

The Director of Housing (DoH) submits that the proposed conduct has significant public benefits and little or no public detriment and accordingly, the ACCC should not issue a notice in respect of the notified conduct.

2. Conduct under consideration

The Public Tenant Employment Program (PTEP) is an initiative of the Director of Housing (DoH), Department of Human Services. The objective of the program is to create employment for public housing tenants through DoH contracts for building, maintenance, cleaning, gardening and painting works to be carried out in public housing estates in Victoria.

The State Government and the DoH are seeking to adopt a new approach to managing social housing that includes a focus on the wellbeing of people living in public housing. This new approach focuses on support for job creation and training strategies by joining local housing improvement works to employment programs (eg. providing houses and materials for trainees) and specifying, in building and maintenance contracts, that private contractors must employ a percentage of local residents as part of their staff. This will include both local tradespeople and graduates from the local Community Jobs Program.

The intention is to introduce a new criteria into the way tenders are assessed. This will mean that future persons or entities seeking to tender for DoH building and maintenance

contracts will need to demonstrate their intention to employ public tenants as a component of their workforce. They may also apply in partnership with an employment support agency, which can provide employment support to the public tenants.

There are 707,37 public households in Victoria and approximately 131,000 public tenants. People who live in public housing experience multiple aspects of disadvantage compared to the State average, including a greatly increased tendency to be a health care card-holder, have a disability, experience crime, be a single parent family, have children in the child protection or juvenile justice system, drop out of school early and be unemployed. This represents an enormous cost to government in providing welfare and intensive services and support, and a personal cost to the communities and individuals that experience these realities.

3. **Public Benefits**

The Public Tenant Employment Program is likely to result in a public benefit for the following reasons:

- it will provide opportunities for disadvantaged people to enter or re-enter the workforce, thereby increasing pride and morale among public housing tenants and decreasing crime and reliance on tax funded welfare payments;
- the reach of the program is broad as PTEP covers trade occupations such as plumbing, construction, carpentry, engineering, electrical, and non-trade positions such as labouring, gardening, cleaning, customer service and security, allowing work opportunities for both skilled and unskilled workers alike;
- state-wide recruitment networks will increase the reach of PTEP embracing both city and rural areas;
- the DoH estimates that once fully implemented, PTEP could create up to 120 jobs per year throughout Victoria. The majority of these positions will be with contractors, however, some positions may become available within the OoH. The positions may encompass full-time, part-time and shift work; and

- implementation of the minimum training requirements will result in increased skills and ability to participate in the broader job market thereby further increasing the benefits anticipated in the first bullet point above.

Accordingly, implementation of PTEP is likely to result in the employment of some of Victoria's most disadvantaged people.

4. **Lack of Public Detriment**

Little or no public detriment is likely to result from the full implementation of PTEP for the following reasons:

- acceptance from building contractors consulted to date has been strong with a recognition that business trends are supporting the principle that social responsibility and being a good corporate citizen are integral components of contemporary business; and
- a range of structures to support the introduction of the program are being implemented, including;
 - (i) strong commitment to employing public tenants through the OoH budget;
 - (ii) establishment of good relationships with existing contractors, who have demonstrated a willingness to be involved;
 - (iii) ongoing discussions with the CFMEU and the CEPU, the main unions covering the housing contract area;
 - (iv) privacy advice sought to ensure compliance with legislation; and
 - (v) support provided by the Public Tenant Employment Manager.