

Staltari, Danielle

From: Lisa Fowkes [Lisa.Fowkes@jobfutures.com.au]
Sent: Thursday, 10 April 2008 7:34 AM
To: Staltari, Danielle
Cc: Palisi, Joanne
Subject: RE: Job Futures request for interim authorisation - request for additional information [SEC=UNCLASSIFIED]
Attachments: Job Futures Response to issues raised 8 April 2008.pdf

Dear Danielle

Please find attached response to issues raised. There is considerable uncertainty about the bid timeframe at the moment so my response reflects this. Let me know if you need any further information.

Regards

Lisa Fowkes

From: Staltari, Danielle [mailto:danielle.staltari@ACCC.GOV.AU]
Sent: Tue 4/8/2008 12:28 PM
To: Lisa Fowkes
Cc: Palisi, Joanne
Subject: Job Futures request for interim authorisation - request for additional information [SEC=UNCLASSIFIED]

Dear Lisa

I refer to Job Futures Limited (Job Futures) application for authorisation and in particular Job Futures request for interim authorisation. To assist the ACCC with its assessment of the request for interim authorisation I would be grateful if you could please address the following questions:

1. Job Futures has advised that it is seeking interim authorisation to cover the current period of preparation for the next tenders of employment services.
 - Can you please provide details on which contracts expire on 30 June 2009.
 - Can you please provide further information about the work involved in preparing for tenders (in particular the conduct Job Futures proposes to engage which is subject to the interim authorisation request).
 - Can you please outline the timing of such preparations relative to the requests for tender.

2. In support of its request for interim authorisation Job Futures has indicated that a failure to grant interim authorisation may cause uncertainty amongst members about the bid strategy for the next tender round and has the potential to harm Job Futures prospects in future tenders.
 - Can you please provide further information to support these claims.

If possible could you please provide a response no later than Thursday 10 April 2008.

A copy of this email will be placed on the ACCC's public register.

Should you have any questions please contact me on 02 6243 1362.

Regards

Danielle

10/04/2008

Danielle Staltari
Assistant Director
ACCC
Ph: 02 6243 1362
Fax: 02 6243 1211

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9th April 2008

Danielle Staltari
Assistant Director
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Ms Staltari

**Queries arising from Application for Interim Authorisation and
Application for Authorisation**

Question 1. Timing and process for preparation of tenders:

The following contracts between Job Futures Ltd and the Department of Education, Employment and Workplace Relations are due to expire on 30 June 2009:

- Employment Services Contract 2006-2009 (Job Network)
- Employment Services Funding Deed 2006-2009 (Personal Support Program, Job Placement Education and Training, Disability Employment Network (uncapped), Green Corps)
- Remote Services Deed 2006-2009
- Australian Apprenticeship Access Programme

At this stage the timetable for release of Requests for Tender has not been announced, however we anticipate that an RFT will be released sometime between July and September, with tenders due 5-6 weeks later.

Because of the scale of Job Futures tender, preparation has already started on the bid. Activities relevant to the application include:

1. Content development

Key activities

- Identifying key messages/positioning in tender
- Developing and documenting service strategies drawing on member practice
- Collecting evidence and data for tender
- Collecting and documenting local member experience and analysis for tender



These activities are done with members through workshops, collection of best practice and discussion. The process is commercially sensitive as it goes to the heart of what we are offering in our bid. It is not possible for Job Futures to do this work without the active involvement of members, as our model rests on local service delivery through our members and their input about local conditions and approaches to tailor the document for specific settings is critical.

We rely on the arrangements in our sub contracts and other member documents to ensure that members participating in the content development process participate in our tender rather than using this information to tender outside Job Futures.

The content development process has started but it is anticipated that most work will take place in May – August. It will be substantially completed by the time the RFT is released. Lack of certainty about the obligations of existing sub contractors and members compromises our ability to develop, in collaboration with members, the content of our bid.

2. Identifying scope and scale of bid

DEEWR divides the country into 137 Employment Service Areas for the purpose of its tender process. It is not yet clear how the services will look, but it is likely that there will be at least 3 service streams in each ESA.

One of our tasks is to make a decision about where Job Futures tenders and for which streams. This involves an analysis of each ESA and a discussion with each member organisation about their capabilities and aspirations. The Job Futures Board determines the final configuration of the tender, balancing the interests of individual members with the interests on the network as a whole. Only in exceptional circumstances would Job Futures Ltd bid for a location or service where it has not clearly identified a member organisation to deliver. The undertakings that Job Futures Ltd makes to its members and members to Job Futures Ltd about the bid configuration are underpinned by the obligations we have to each other – contained in the sub contract and the member documents which are spelled out in our application for Authorisation.

The process of identification of members aspirations and capabilities in each ESA is underway and will need to be finalised as soon as possible after the program streams are identified (likely June 2008). An inability to determine the scope and scale of our bid well in advance of the RFT would disadvantage Job Futures Ltd in a tender because of the scale of our tender and the need to do substantial work prior to the formal RFT being released.

3. New Members

In the lead up to a major tender Job Futures considers where additional members might complement its existing membership base. Organisations regularly approach Job Futures about membership. Certainty about what membership means in terms of the rights and obligations of members is essential to the decision making process of potential applicants and of Job Futures Ltd. Organisations applying for membership generally do so with a view to entering into a sub contract and the nature of the obligations under any future sub contract need be clear. These rights and obligations are set out in the current and proposed arrangements that are the subject of this application.

The process of considering new members is ongoing. There are three new membership applications under active consideration and several anticipated applications.

4. Final bid production

In order to finalise our bid documentation Job Futures Ltd needs to identify each proposed sub contractor. If a sub contractor is listed and that organisation then participates in a bid for the same ESA outside Job Futures, our tender may be non compliant. Job Futures works with each sub contractor to identify the proposed sites and business levels at each location. In the case of price competitive bids, Job Futures works with members to determine a price at which the bid will be competitive and viable to deliver.

Question 2. Potential impact of failure to grant interim authorisation on bid

The current and proposed arrangements set out a range of rights and obligations in relation to tendering. These include the right to be included in a tender, protection of members pre-existing business, prohibition on existing sub contractors tendering outside Job Futures and protection of the shared value members have in the network.

Development of a strong bid requires:

- confidence about the ability to maintain confidentiality of our preparatory work and analysis;
- certainty about the sub contractors that will contribute to the tender preparation process and that will be nominated in any final bid;
- certainty, as soon as practicable, about which locations and services will be bid for;
- capacity to recruit new organisations to membership on the basis of clarity about their rights and obligations.

Over the last six months there have been significant mergers and acquisitions in the employment services market. Our potential competitors for employment services contracts are in the process of developing their bid strategy, determining the scale and scope of their bid. Development of a bid for Job Futures Ltd requires certainty about the arrangements that apply within our network.

By the time we submit the tender we need to be able to provide the purchaser with a clear understanding of the basis upon which we are tendering. This includes:

- proposed sub contractor details;
- information about the nature of the sub contract arrangements;
- an assurance that our bid process has not violated any rules around collusive practices.

If there is uncertainty about the arrangements that surround Job Futures Ltd tendering process this could mean uncertainty for existing sub contractors about the appropriateness of participating in a Job Futures Ltd bid. It could raise questions in the Department about the sustainability of Job Futures model. Each of these would disadvantage Job Futures in the preparation and submission of a quality bid and in our chances of securing ongoing contracts with the Government.

Please let me know if any further information is required.

Yours sincerely

A handwritten signature in black ink, appearing to read "Lisa Fowkes", written on a light-colored rectangular background.

Lisa Fowkes
Chief Executive Officer