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19 April 2007

ATT: Kate Sullivan

Committee Secretary
Joint Standing Committee on Migration
Department of House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Sir,

We have pleasure in enclosing our submission and look forward to meeting with the Committee in due course to present our key points. A copy of this submission has been sent via email today.

Yours sincerely,

C F Ware
Chairman

ACPMA Submission to the Parliamentary Joint Standing Committee on Migration in relation to the current monitoring, enforcement and reporting arrangements for the subclass 457 Temporary (Business (Long Stay)) visa.

Date: 19 April 2007

Presented by Colin Ware - Chairman Australian Contract Professions Management Association

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On behalf of ACPMA (Australian Contract Professions Management Association)

The members of ACPMA appreciate the opportunity of being able to present the following submission to the Joint Standing Committee on Migration.

The ACPMA is the industry association representing the interests of the Contract Management Professionals of Australia and a summary of the working of the Association, including a fuller explanation of its aims and the services it provides to members and to the Australian economy is attached for your information. (Appendix A) All members of the ACPMA adhere to a rigorous Code of Conduct and Rules governing their activities and business operations. Copies of our Code of Conduct and our Rules are also attached for your information. (Appendix B and C)

In formulating the opinions we have expressed in this submission, we have conducted in-depth negotiations with our membership and have also drawn extensively on our knowledge of the requirements of our client companies so that, in this respect, our submission may be taken as representative of their interests as well as the interests of our members.

The ACPMA has recently formulated a paper outlining what we regard as some of the main issues presently confronting stakeholders in relation to the Temporary Business Entry Scheme (TBE) and containing some suggested solutions for improving the scheme. This paper was prepared for presentation to DIAC but we feel it may be of interest to the Committee and have appended it to this submission (Appendix D) — exhibit 7

We look forward to presenting further information and comments in person to the Committee.

EXECUTIVE SUMMARY

1. Labour hire includes contract management activities and is practised by a wide range of organizations including the recruitment industry.
2. Indexation of minimum salary levels is unnecessary.
3. Sponsorship should only be permitted if the labour hire sponsoring company is registered to carry on business in Australia and does in fact do so.
4. English language requirement is fundamentally important where safety issues are at stake and the onus of establishing proficiency in English should be placed on the employer (sponsor).
5. A training levy should be introduced.
6. Labour market testing is unnecessary and the Gazetted List of Occupations can be relied upon.
7. The labour hire industry provides a valuable contribution to Australia's economy by simplifying access to skilled persons in short supply.
8. Labour Agreements, in their current format, will detrimentally affect the free flowing 457 programme and should, at the least, only apply to skill levels of 4 and below.
9. Monitoring should be extended across the full range of sponsors.
10. An extension of the use of labour hire organizations will reduce the number of sponsoring entities to be monitored and make for more efficient use of DIAC's time.
11. DIAC already has adequate access to a wide range of effective sanctions to enable enforcement to be effected.
12. Procedural improvements can be achieved.

ACPMA Submissions to the Parliamentary Joint Committee

The ACPMA (Australian Contract Professions Management Association) takes this opportunity to thank the Joint Standing Committee for this opportunity to make submissions in relation to the current monitoring, enforcement and reporting arrangements for the subclass 457 Temporary (Business (Long Stay)) visa. Since this is the visa class that most concerns our membership, the main emphasis of this submission will be focused on the Subclass 457 visa. However, we will also make some comments in relation to the other, short term, business visa classes, namely, the Subclass 456, 459, 956 and 977 visas.

1. OVERVIEW

We would like to make the following points:

- Labour hire encompasses both our industry, the contract management industry, and recruitment companies and any attempt to distinguish between the two is fallacious. Indeed DIAC has never drawn such a distinction.

- Our Association members will only sponsor skilled professionals in the ASCO 1-3 skills levels.

- We have been consistently proactive in working with DIAC over the last few years to ensure the ethical and legislative basis on which our member companies operate within the Temporary Business Entry (TBE) Programme.

- We are aware, through the media, that a limited number of employer sponsors (especially those that sponsor from overseas or are single purpose development companies), may be engaging in conduct that is destined to bring the TBE programme, and, ultimately, Australia, into disrepute and we would wish to very firmly dissociate our Association and our members from the practices of these organisations.

- We fully appreciate the concerns highlighted by the Council of Australian Governments in the Resolutions of 31 July 2006 and are anxious to continue working with Government to ensure that effective measures are put in place.

- We are equally anxious that due cognizance is taken of the fact that the vast majority of companies operating within the labour hire/contract industry in Australia are constituted and based in this country and operate within the Regulations and the policy of the Migration legislation as well as within relevant employment legislation.

- We ask that the Committee recognise the beneficial contribution that the labour hire industry makes to the smooth operation of business and government throughout the Australian economy - as evidenced by the sustained, long term growth of this industry sector, in response to market demand, both in Australia and worldwide.

- In particular, we would ask that any enquiry into the operation of the TBE makes a clear distinction between the practices of those labour hire and recruitment companies located and operating within Australia and those constituted overseas.

- We would ask the enquiry to note the policy that prompted the introduction of the TBE, which was to provide a readily accessible means by which Australian businesses could access overseas skilled labour in situations of skills shortages. This is a facility that is needed now more than ever.

- The ACPMA fully supports the efforts of government to identify and eradicate abuses of the TBE. However, we are concerned hat recent media attention to these abuses should not be permitted to detract from the very clear benefits of the TBE and the contribution it has made to the Australian economy.

- We stand ready, publicly, through the media, to support the TBE scheme and the immense economic value it provides to Australia.

- In relation to Australian based labour hire companies, our Association rests on our industry's history of cooperation with DIAC in ensuring compliance with the Migration Regulations and policies and would ask that any review of the TBE should concentrate on education and counselling of those companies identified as being in breach of the Regulations and in profiling those at high risk.

We contend that those at high risk are:

*overseas sponsors whose management may not have an appreciation of the seriousness and the extent of compliance required by Australian authorities;

*single purpose companies which are established for one project and do not have the experience to run the program;
*small/medium enterprise employers who do not have the funding to establish special purpose systems and hire the specialist staff necessary to ensure compliance with DIAC regulations .

2. ADEQUACY OF CURRENT ELIGIBILITY REQUIREMENTS

2.1 Minimum Gazette Rate

ACPMA fully supports all efforts to prevent exploitation of overseas workers and recognises that the establishment of a Minimum Salary Level (MSL) for 457 visa holders is one method of ensuring vulnerable sectors of overseas employees are protected. However we would wish to point out that many overseas workers – including all employees sponsored by ACPMA member companies - are very highly skilled and very highly paid. It is normal within Australian businesses that all such employees (both local and expatriates) will work overtime on an unpaid basis. To insist that overtime was payable to such overseas employees would discriminate unfairly in their favour vis-à-vis their Australian co-workers.

The average wage of 457 visa holders employed by Australian labour hire entities would, invariably, greatly exceed the MSL. Such employees are very aware of their value in the market place, particularly in a time of widespread skills shortages. It is extremely unlikely that such persons would be liable to exploitation. In effect, current MSL policies discriminate against many overseas employees, by not allowing them the same salary packaging entitlements available to Australian employees.

In practice, the use of labour hire companies greatly assists in preventing any exploitation in the area of unpaid overtime. Labour hire companies already implement 'built-in' security against such abuse in that sponsored employees will normally submit to the labour hire company, a time sheet, showing hours worked in any pay period. The requirement for timesheets in such situations arises from the fact that the employees are contracted out to end user companies which are charged on the basis of the number of hours they have utilised the services of the sponsored employee.

The employee will be paid higher amounts if additional hours are worked. These amounts will never be allowed to fall below the MSL but will often greatly exceed the MSL.

Our comments in relation to labour hire companies are confined to those companies operating within Australia. We are aware that some overseas recruitment and labour hire companies have been involved in practices that threaten to bring the whole TBE scheme and, indeed, Australia, into disrepute. Therefore, in regard to labour hire firms, we would enthusiastically support any efforts by DIAC to restrict the right to sponsor only to those companies that are constituted and operate within Australia.

We agree with prevailing policy that the TBE should not be impeded by unnecessary complexities and feel that indexation of the MSL would have a contrary outcome in that it would have the propensity to cause major difficulties for all parties. The maximum time for which a 457 visa holder can be tied to the level of MSL set at sponsorship is four years. This appears a reasonable time frame and we do not consider that the difficulties, if any exist, that might arise over such a relatively short period of time warrant the introduction of indexation and all its attendant complexities. Implementation, monitoring and budgeting would all be made more cumbersome.

There may also arise many situations where overseas employees were receiving salary increases in line with indexation while local employees were not, which again, would not be beneficial for workplace relations and would discriminate unfairly in favour of the overseas employee. Until we have a situation where every Australian employee receives salary increases in-line with indexation there is no justification for discriminating in favour of overseas employees.

If it is determined that indexation should be introduced we would urge that no transitional measure be implemented that might affect existing sponsors. We are of the view that current sponsors have accepted the already onerous undertakings of sponsorship on the basis of a fixed MSL. To introduce, at a later stage, a requirement for indexation, would impose an unfair additional obligation on Australian sponsoring companies and would, in effect, amount to retrospective legislation.

2.2 English Language Requirement

ACPMA would be supportive of attempts to encourage improved standards in English Language, particularly where issues of safety are identified. However, we would comment that, currently, there are lengthy wait lists for English Language testing and we would be concerned that any requirement for mandatory, formal evidence of competency would, inevitably, result in extending already lengthy 457 processing times.

Further, at present, in those visa classes where English language testing is mandatory, testing is often required from persons for whom English is their first language. For example, many South African applicants fall into this category.

Consequently, the ACPMA rather prefers an approach that places responsibility for the promotion of English with the employers, who are best placed to determine appropriate standards of English required.

It is our perception that most difficulties occur within the trade categories and we fully accept that this can sometimes give cause for concern that safety in the workplace may be compromised. In our paper to DIAC (Appendix D) we have proposed the introduction of a new 457 trade visa class. Within this class, English testing would be mandatory.

2.3 Required skill level

Our Association believes that current skill levels are adequate.

2.4 Training requirements

Australian sponsoring companies are all required to meet minimum standards in relation to the provision of training to their Australian employees. We appreciate that current training methods and records will vary across different industries and even employers, but this is a reflection of the fact that differing training procedures must be offered in order to cater for the variety of individual needs of employees. We are of the opinion that the Committee should encourage DIAC to acknowledge the fact that this individuality is a positive element of Australia's practices so that any new assessment process should retain a high degree of flexibility in order to encourage this diversity.

In particular, our membership has concerns that many small firms and companies operating in Regional Australia find it difficult to meet the stringent requirement of the training criteria. We feel that it would be appropriate to recognise this and to accept that it is not always realistic to expect a high level of training expenditure from such companies. Also, we consider that it is appropriate that due recognition be given to the value of 'on the job' training which is provided on an ongoing basis in most work places throughout Australia, even where this is, admittedly, difficult to quantify.(See Appendix E for examples of position descriptions which require transfer of knowledge as part of the assignment.)

A common complaint from many of our members is that there appears to be little consistency in what is regarded by DIAC as acceptable in terms of meeting the training requirement. Levels of training which meet with Departmental approval in

one year, may be regarded as unacceptable in the next. This results in inconsistency and a lack of certainty as to what constitutes an acceptable level of training.

One suggestion has been that Contract Management companies may evidence compliance with the Regulations by means of a 'Training Levy', which would be calculated on the basis of the number of Visa Applications lodged by each sponsoring company. In the view of our Association, this would have the merit of providing each sponsoring employer with a readily identifiable means of ensuring compliance with the Regulations which would be directly proportionate to the extent to which they accessed the TBE scheme. Levies collected would be payable to a designated Federal Government Training Fund, to be expended in accordance with specified training aims. The levy should be set at such a level that the sponsoring employer would still have the ability to promote training among its internal employees, since this is recognised by all of our members as a valuable means of improving employee skills, encouraging job satisfaction and fostering staff loyalty.

Most importantly, we would ask the Committee to consider the very positive contribution that Contract Management Companies make to training in Australian workplaces. They are net importers of scarce skills, by virtue of the fact that they facilitate the entry of highly skilled overseas personnel into Australia who subsequently promote skills transfer to their Australian colleagues. This skills transfer would be likely to occur in the normal interaction between employees in our workplaces, but it is also specifically incorporated into the employment contracts offered to overseas employees. Our members have confirmed that, in the majority of contracts between our clients and our sponsored employees, it is incumbent on the sponsored employee that he/she should actively cooperate with the client company in training their local workforce.

2.5 Labour Market Testing

ACPMA fully supports the policy concern that any examination of the relevance of LMT to the operation of the Temporary Business Entry Programme should take cognizance of the importance of curtailing administrative complexity. We are of the opinion that the current system, whereby we have a gazetted list of occupations that are open to sponsorship, already very efficiently fulfils the functions of LMT. This method is much less susceptible to abuse, is less expensive and is less complex than the previous system, which required a specific programme of advertising to establish skills shortages for each position nominated.

We would also question whether, in the present climate of widespread skills shortages, it should be necessary to remove any further occupations from the

gazetted list, in the absence of clear evidence that unemployment exists in those occupations.

3. GENERAL COMMENTS

3.1 Labour Hire Industry

ACPMA would be confident that any investigation into the Australian labour hire industry, as represented by our Association members, would confirm the ethical and legal basis of our activities, always provided, as stated above, that such an inquiry was conducted on a 'level playing field'. It is important that any conclusions regarding the future of the industry and its involvement with the temporary Business Entry programme should be formulated within the context of the increasing relevance of the labour hire sector to the Australian economy. In addition to our membership, labour hire activities are now routinely conducted by most (both major and small) Australian recruitment companies. Additionally, numerous large corporate entities, such as Qantas and St George Bank, have 'captive' labour hire companies.

While some companies within the recruitment industry have sought to dissociate themselves from the Contract Management Industry and/ or from the Labour Hire Sector – no doubt as a direct reflection of the adverse media attention the industry has received – the fact remains that the recruitment industry is heavily involved in labour hire through its activities as sponsors of large numbers of 457 visa holders. Consequently, if any decision is made to curtail/restrict the ability of labour hire entities to sponsor overseas employees, this will have an extensive and highly detrimental effect on large sectors of industry and government across Australia.

We would request that the Committee undertake any examination of the role of the labour hire industry in a spirit of open minded and unbiased inquiry and that your members remain appreciative of the well documented contribution that the industry makes to the Australian business economy. Many independent surveys have highlighted the positive contribution made by the labour hire industry and this is, perhaps, not the forum in which to reiterate the points made in the surveys. We would, however, wish to stress the following issues:

At present, the use of labour hire companies is a well-entrenched aspect of Australian business life and any disruption to the status quo would have the inevitable effect of causing widespread disruption throughout the business community and, therefore, the economy. There would be no immediate, alternative mechanism available to fill the void.

There are sound reasons why the use of labour hire companies is supported by businesses:

The IT industry, in particular, is very largely project driven, with the consequence that employers prefer to engage specialist services on a contract basis. There have been media comments suggesting that sponsorship of overseas personnel has been detrimental to our IT industry and has resulted in unemployment, particularly among recent graduates. However, Australian employers have no interest in employing inexperienced overseas persons: the people they seek to recruit are invariably IT specialists with skills that are either in short supply or do not exist in this country. Far from harming Australian employees, these overseas specialists make a valuable contribution to improving the skill levels of their Australian co-workers, both by direct skills transfer and by the fact that their presence in this country ensures leading edge projects remain in this country rather than being resourced overseas. Each project that is secured for Australia, also secures further employment prospects for our IT industry, including our recent graduates, and offers exposure to International best industry practice.

It would, of course, be preferable if the Australian IT industry could resource all of the country's IT needs from within our local labour force, but the fact is that we require to import substantial numbers of overseas personnel and will continue to do so while skill shortages remain. While the long term solution to these skill shortages must focus on training and up-skilling our local labour force, short term expediency requires that we rely on overseas IT specialists, who will, in the course of their work in this country, make a valuable contribution to improving the skill levels of their Australian co-workers.

Another reason why employers increasingly rely on labour hire is that many are wary of undertaking the responsibilities of employing an overseas specialist whose services may be required for a very limited time only. Businesses are reticent about accepting such employees onto their payrolls, with all the incumbent responsibilities of the employer/employee relationship, not to mention the risk of the detrimental effect that an increased 'headcount' may have on the company share price. This problem is not rectified by offering a fixed contract to the overseas employees, in view of the well-documented difficulties that attach to fixed term contracts within an employment context.

Australian business prefers – in fact, demands – access to labour hire companies in order that they can protect their investment by maintaining a contractual, rather than an employment, relationship with any overseas specialists they may require.

Further, State and federal governments also make wide use of labour hire companies in order to access the skills of overseas workers. While government departments are constrained to employing only Australian citizens or permanent residents willing to take up citizenship as soon as possible, labour hire companies provide a convenient method of accessing overseas labour possessing the required skills.

As a corollary to the above, many highly skilled personnel would be unwilling to relocate to Australia if they could be assured of a visa only for the term of the initial contract. In a highly competitive global market, they would be more likely to accept positions in those countries offering more long-term prospects. This is particularly the case since the introduction of the new ENS provisions in Australia, where permanent residency only becomes accessible if the sponsor confirms that a position will be available for a period of three years. Many overseas specialists view the 457 programme as a means to obtaining permanent residency and would be less likely to take up positions in this country if they were unable to secure a long term visa, sponsored by a labour hire company, that could, in time, provide a pathway to permanent residency.

The recruitment and labour hire industry have well-established networks and contacts overseas that have been developed over decades and which have enabled Australia to readily access large pools of highly skilled overseas personnel. This has enabled Australia to fight 'above its weight'. This has greatly been to Australia's advantage, particularly in the current labour market, where opportunities exist for the most highly skilled across the globe. If Australia is to remain competitive, our recruitment and labour hire industry must also remain competitive.

Any restrictions on the right of the Australian labour hire entities to access the TBE would have the potential of removing their competitive edge in the global market place and could well prove to the detriment of Australian business a whole. We are a country of only 20 million, competing for scarce skills against countries whose populations' number hundreds of millions, with their attendant, larger, capital investment bases. Our companies need all the assistance that they can access.

Further, if the right of labour hire companies to sponsor overseas employees was removed or restricted, this would result in the emergence of a plethora of sponsors, as companies were compelled to apply on an individual basis to sponsor overseas applicants. This would make monitoring more difficult and would be likely to result in much more widespread abuse of the temporary business entry scheme and more opportunity for adverse media comments. It would also add to the already lengthy processing times companies and applicants currently face.

In summary, we are of the opinion that any removal or restriction of the right of labour hire companies which includes recruitment companies to sponsor overseas employees would have an extremely detrimental effect on Australian businesses and would meet with widespread opposition in the business community.

There has been some discussion in recent months of the possibility that Labour Hire entities should be restricted from offering administrative services to sponsoring employers. We would wish to alert the Committee to the positive aspects of the role that labour hire firms play in the provision of services to sponsoring companies. We accept DIAC's concern that there should be no 'interposed entity' in the relationship between the sponsor and the 457 visa holder, in situations where this has the potential of lessening the element of control that is relevant to the employer employee relationship, and hence to the 'direct employer' criteria which sponsors must meet.

However, it has long been established in general employment law that services such as the payroling function may be outsourced without any impact on the direct employer relationship. This is because this type of service is correctly interpreted as administrative only in nature. The payroling company remains subject to the instructions of the employer in the matter of the amount/frequency etc of payments. We would submit that this is a very logical and well-accepted distinction and to impose any other interpretation of this type of service, simply because the service is provided to a sponsoring employer, would be inconsistent with the general law. It would also lead to anomalous situations where sponsoring employers could access the services of contract management companies for their local employees but would not be permitted to do so in the case of overseas employees.

Further, some clear advantages can be identified where services are provided by specialists such as contract management companies. They have expertise in this area which enables them to deal efficiently with the special requirements of a sponsoring employer, in terms of record keeping, ensuring maintenance of the MSL, compliance with superannuation legislation, etc. This expertise becomes even more important in the light of the increasing complexity of the responsibilities faced by employers, many of which require sophisticated systems to ensure compliance. Indeed specialised systems have been developed, at some considerable cost, by our Association members to enable monitoring to be effective and to meet with DIAC's ongoing requirements.

3.2 Increased Use of Labour Agreements

ACPMA has concerns in relation to the proposal that increased use should be made of Labour Agreements. In their present form, Labour Agreements are cumbersome and costly to negotiate and set up and, if these are to become more prolific, concerted attempts should be made to make them much less complex. This would be consistent with the general policy behind the TBE, namely, that this scheme should be for the benefit of Australian business to allow us to readily respond to skills shortages in the local labour market.

We also have concerns that no attempt should be made to specifically target the Australian labour hire industry by requiring that it must use Labour Agreements. We do not feel that such an approach would be consistent with the stated objective of the TBE programme that access to the scheme should not be hampered by unnecessary administrative complexities. We are also firmly of the view that such a restriction would unfairly discriminate against our business sector.

The ACPMA, in keeping with a number of other Industry Associations, has recently entered into negotiations with DIAC and DEWR with the aim of investigating whether or not the Labour Agreement format is suitable to the needs of our members. In this we have received very positive encouragement and assistance from both DIAC and DEWR, but it appears to us that the negotiations have only served to confirm our view that the Labour Agreement does not provide a better vehicle for the needs of our industry members.

Even with an energetic and positive input from all parties concerned in the negotiation of a Labour Agreement, it is not possible for our members to realistically anticipate the labour market needs of our members and all their diverse clients for the forthcoming two/three years. It is also virtually impossible to identify the actual numbers in each specific occupation codes that our members will need to sponsor over the next few years in order to be responsive to their clients' requirements. Accordingly, we do not feel that the use of Labour agreements will enhance our members' ability to contribute to their clients' businesses and, thus, to the Australian economy.

We are also aware that the subject of State/Territory involvement in negotiations for Labour Agreements has been widely mooted. While we would support the introduction of measures that would facilitate intra-government awareness of the operations of the TBE, we note that one of the main criticisms that business has, in the past, levelled against the use of Labour Agreement is that it is difficult to obtain consensus among the variety of interests and organisations that have to be involved in the negotiation process. Although input from state/territory government may be valuable in terms of their local knowledge it is a concern that

the introduction of yet more interested parties to the process would tend to exacerbate the problem of finding consensus.

For the reasons stated above, we have serious reservations as to whether the Labour Agreement is, in its present form, a readily accessible vehicle through which labour hire companies could access the provisions of the TBE. These agreements require a much more substantial commitment, in terms of manpower, resources, expenses and are much more complex to negotiate than a normal business sponsorship. Also, they require the applicant to be able to pre-determine not only the exact occupations they will wish to sponsor for the duration of the agreement, but the specific numbers in each occupation that will be required. This would be an extremely difficult, if not impossible, task for labour hire companies as they would have to be able to predict what their entire customer base will require over the forthcoming years. It would also be inconsistent with the stated aims of the TBE which is to provide a highly responsive and readily accessible means by which Australian business can respond to skills shortages. The imposition of a total ban on accessing the TBE other than via a labour agreement also appears an unwarranted restriction on the right of labour hire companies to be treated equitably and according to the same standards as any other type of Australian business. Such a measure would seem particularly unfair in view of the concerted efforts Australian based labour hire companies have made to ensure continuing compliance with migration policy and practices.

3.3 Monitoring

Probably as a direct result of the bad publicity generated by some overseas companies operating within the labour hire industry, our Association members have been subjected to very rigorous monitoring over the last few years. While our membership has no issue with the fact of the monitoring, and fully supports any proposals designed to curtail breaches of the Regulations, we have concerns that recognition be given to the fact that we have consistently been found to be in compliance with the Migration legislation and policy.
In view of the high level of attention labour hire companies currently attract from DIAC, in terms of monitoring, we would request that particular care should be given to ensuring that all investigations take place on an 'even playing field', in order that the labour hire industry should be seen to be treated fairly and openly according to the same standards as other industry sectors. It may well emerge that the reason DIAC have formed a perception that there is an increased level of breaches of the TBE within the labour hire industry is a direct reflection of the intense scrutiny the industry has consistently been accorded.

We have concerns that no one industry sector should be penalised or singled out for 'special treatment'. Where abuses are identified within the system, these

should be curtailed by means of monitoring and sanctions. This would be a more appropriate and fairer and more equitable way of dealing with breaches of the regulations or policy. It would also be in keeping with the general principle of law that legal sanctions /penalties should be imposed in a non arbitrary, proportionate and discriminate basis, rather than in a manner which indiscriminately affects an entire category of business organisations, irrespective of individual liability. All Australian businesses, including those operating within the labour hire industry, are entitled to expect unbiased treatment and justice from the administration and the executive branches of government

3.4 Enforcement

ACPMA considers that DIAC already has access to a wide range of effective sanctions and has reservations as to whether further measures are necessary or warranted. If further sanctions are considered necessary, we would suggest that the imposition of these sanctions should be preceded by a vigorous education campaign to alert sponsoring employers to the impending changes.
The labour hire / contractor management sector in Australia has consistently shown itself to be willing to self-regulate to comply with DIAC's policies. This has been the case even where these policies have proved difficult, time consuming or expensive to implement. The industry has already shown that it can, through co-operation with government, work to rectify any problems identified. DIAC should use its existing practices of educating sponsoring companies on their obligations as a means of preventing contraventions and, where necessary, imposing appropriate sanctions on recalcitrant companies, rather than seeking to withdraw the right to sponsor from entire industry sectors or imposing on those sectors, more restrictive conditions (such as, for example, a requirement that they may only access the TBE though Labour Agreements.)

4 Reporting Arrangements

Our Association would support centralized reporting requirements if this resulted in improvements in uniformity and speed of decision making.

5 Procedural Improvements

Without question, the one issue which unites all users of the Temporary Business Entry Scheme is that of processing delays. It is a matter of ongoing frustration that the system continues to be subject to long processing delays. Our Association fully accepts that DIAC officers are working under increasing pressures as a result of the increasing numbers of applications being lodged

under the 457 regulations. Clearly, Departmental resources must be increased to cope with the increasing volume of applications. However, some additional measures may be taken which might improve processing times in the short/medium term.

Many of our clients will have need of the services of an overseas specialist for only a short period of time – often for less than the three months which is stated as the minimum term of the 457 visa. At present, there is no visa class which fills this need. The subclass 456, 459, 956 and 977 do not permit the holder to engage in work other than in certain very limited circumstances. (Work is permitted where there is an 'emergency', where the work is carried out for a few days only, where the work is highly specialised in nature AND where it does not occur repeatedly.) We would recommend that consideration be given to extending the work rights attached to these short-term visas, making them more accessible and eligible for priority processing. This will reduce the pressures on the 457 visa.

The ACPMA also recommends priority processing where there is a repeat application from an applicant already in Australia on a subclass 457 visa and where the applicant is making a repeat application under the same ASCO code. Our Association also recommends that, where companies have exhibited a long history of effectively vetting their own 457 visa applications, prior to lodgement, and of consistent compliance with Migration Regulations and Policy, such companies should be accorded priority processing for their applications.

We understand that additional integrity checks are carried out on applications received from holders of 'high risk' country passports. It may assist in ensuring procedural fairness if these applications are exclusively dealt with by certain specified officers. This would enable these applications to be held in abeyance pending receipt of the required security checks, in a manner that would not impact on the caseloads of officers dealing with applications from ETA or other trusted sources.

A recurring theme of recent media reports is the abuses to which overseas 457 visa holders are subjected by some unscrupulous employers. Our Association embodies in our Code of Conduct a requirement that our members comply with all relevant migration and employment statutes. We have also been subject to ongoing monitoring by DIAC, over many years, designed to detect any such abuses. Our membership is, therefore, committed to complying fully with both the spirit and the letter of the Migration Regulations.

We are aware that many small/medium enterprise employers, who have limited sponsored employees and are, hence, subject to only limited monitoring, can successfully evade their responsibilities to overseas employees. In such

circumstances, abuses can remain undetected, often because the individual visa holders are too concerned that they will be deported to lodge any complaint. If such individuals could be promised additional time within which to find an alternative sponsor, or if it could be made clear, by publicity and extensive education, that DIAC efforts would concentrate on working with the employer to rectify abuses rather than on taking punitive measures against the visa holder, then the visa holder may be more inclined to report abuses. It is a concern to our members that every sponsoring employer should be subject to the same requirements in order to be able to access the TBE.

One area of identified abuses exists in the overseas labour hire sector. This is of especial concern to ACPMA members since it reflects badly – and unfairly - on our industry. Consequently, we would enthusiastically support any measures that seek to curtail the ability of overseas labour hire entities to sponsor employees to work in Australia. As an alternative, such companies could be required to lodge a Bond with the Commonwealth Government as security against any proven breaches of employment or migration regulations.

APPENDIX A

THE CONTRACT MANAGEMENT INDUSTRY

1 The Industry and its Members

1.1 General

We have outlined below a description of the industry, its origins, its operations and its operating environment. We are happy to discuss this description in detail. The members of Australian Contract Professions Management Association Limited ("ACPMA") are

CXC Global

Freespirit

Geoffrey Nathan Consulting

Lester Associates

all of which have their main operation control offices in Sydney.

1.2 Why the industry developed in Australia

The contract management industry has been in Australia for several decades. Companies have been hiring employees directly to end users or recruitment firms in building, entertainment and other fields for many years. However, since the late 1970's there has been a growth in these companies. They have expanded into new fields of IT, accounting, banking and finance, engineering, nursing and education. Why has this occurred?

As with any other service organisation, the contract management industry represented by the Australian Contract Professions Management Association Limited ("ACPMA") developed in response to changing business needs.

Over the last 20 years, Australian businesses have been under growing pressure to seek out ways to remain competitive. They have been required to respond to the development of global markets, deregulation of Australian financial and other markets, developments in communication and information flows and increased shareholder sophistication.

Part of their response has been the drive for increased efficiency and cost savings. This resulted in opportunities for various service organisations, including those involved in the efficient management of human resources. Although it was an evolving process, the development of the Contract Management Companies was largely driven by the following factors:

(a) **Demand for a flexible workforce:** Businesses demanded the flexibility to increase or decrease manpower based on business needs and to more easily move between skill sets.

(b) **Outsourcing is a source of cost savings**: By outsourcing the recruitment and maintenance of contractors, customers do not need to retain specialist recruitment personnel or expensive computer systems to manage information flows.

(c) **Australia has skills shortages in specialist industries (e.g. IT):** The Department of Immigration and Multicultural Affairs (DIMA) lists the skills shortages which should receive priority visa application processing. These listings align closely with the skills demanded by many customers of ACPMA members.

(d) **Some major events have resulted in demand for contractors:** Events such as the "Dot Com" explosion, Y2K, the introduction of the simplified tax system (especially GST) and the Olympic Games each fed demand and growth considerably.

(e) **Local recruitment companies were not geared to provide the specialist services required:** The recruitment and management of specialist contract labour is not a core function for recruitment companies. As discussed further below, the provision of these services requires, inter alia, strong systems and an ability to deal with senior contractors in specialised industries. The contract management companies had existed internationally for many years. They were much better placed, with their global networks to manage these growing needs and to import the systems and methodologies needed.

The contracts management industry is responsible for the contracting and placement of over 10,000 professionals across Australia each year. Principally, the industry places professionals in the fields of IT, nursing, accounting, banking and finance, and engineering. The industry's ongoing clients include many of Australia's largest organisations, including a majority of the top ASX 200 companies.

Many leading Australian and multi-national recruitment firms have also developed contract management skills and are our competitors in the market. As you will appreciate it is rare that we would receive any referrals of contractors or end users from these organisations, however it can happen when they are unable to fill a particular contract position for some reason.

It is also relevant that many Australian corporations have established contract management skills as either part of an internal team or by establishing a separate entity to specialise in this. They have recognised the separate skill sets necessary and the benefits to be gained by managing this as a stand alone operation.

There is no practical difference between these services offered by recruitment firms or corporations (within their own corporate group) as compared with members of the ACPMA. .

1.3 What Contract Management Companies do and how they do it

This section contains details as to the way in which Contract Management Companies ("CMCs") operate on a day to day basis.

(a) ***The services offered to employees include:***

- Searching for employment with end users (which include many of Australia's largest companies and Government agencies) and through referrals from LHF's. CMCs maintain a detailed database of end user customers.
- Match contractors with particular assignments to minimise gaps in work flows.
- Provision of office facilities with access to the internet work search organisations such as **jobnet.com** and **monster.com**.
- Sponsorship of individuals under the Business Sponsorship scheme (BS). Sponsorship is a dominant reason for enquiries. Through various available

international web sites, potential Foreign National (FN) employees of CMCs are aware of DIMA visa limitations. If they have not been working in Australia, employment negotiations are often carried out before arrival in Australia as sponsorship is only possible where there is an existing employment contract in place

- Insurance for workers compensation, public liability and professional indemnity.
- Preparation and lodgement of taxation returns.
- Providing greater flexibility to work in a wider range of environments.
- Introductions to financial planners.
- Discounted membership of professional associations.
- Arranging relocation services and training programmes.
- CV templates are provided to facilitate assignment interviews

(b) The services offered to external clients, both end users and LHFs, include:

- Searching for and recruiting contract labour for Australian organisations
- Matching contractors with particular assignments to minimise employment gaps and to maintain continuity of contract labour on behalf of end users.
- Taking the employment responsibility for contractors, including negotiation of obligations in respect of remuneration and arranging relevant insurances
- Facilitating sponsorship under the Business Sponsorship programme (BS)
- Development and management of human resources systems to manage contract labour to ensure that all compliance obligations are met (including PAYG tax, GST, payroll tax and Superannuation Guarantee contributions) and that comprehensive relevant information is provided to employees and external clients
- The specialist services have resulted in high-quality contract labour being accessed for corporate customers in Australia as well as many other countries around the world. The services provided by industry members result in cost savings and efficiencies for corporate customers.

(c) How do Contract Management Companies source their employee base?

This industry draws its employee base from three main sources:

Word of mouth, direct enquiries and referrals from overseas affiliations

- Overseas affiliates of CMCs are often contacted before Foreign Nationals (FN) departs their home country to enquire as to work conditions in Australia and whether there is a local office.
- Web sites and other advertising material are researched by FNs and contacts made with the relevant Australian office.
- Contract Management Companies are well known to overseas recruitment firms. Those firms, through their Australian offices, refer FNs to us.

- Word of mouth contact through individual FNs working in Australia point out the desirability of sponsorship and the manner in which sponsorship with a Contract Management Company operates.
- FNs often require sponsorship to provide flexibility in duration of employment (longer term contracts) and ability to move from one end user to another. Being tied to one Recruitment firm narrows the prospects for an FN as they would only have access to the end users of that LHF. CMCs provide a broader access to the market.
- Searches on the Internet locate employment services such as **monster.com**. This reveals links to Contract Management Companies.
- Applicants for short term roles with end users are referred to Contract Management Companies.
- Many FNs previously used their own "Private" companies. With the introduction of GST and PSI legislation, this is now far less attractive. Many of these FNs are now employed by CMCs.

The above enquiries can be received by phone, email, letter, fax and personal interviews.

Detailed discussions are held covering services offered and terms and conditions of employment as well as market conditions, the likely level of demand for the individual's skills and levels of remuneration packaging available. It is not unusual for a person to speak to a number of CMCs before making a decision. All required employment documentation is completed.

Referrals from end users

- End users will approach CMCs to fill contract positions. If an appropriate person is not available, the CMC can be retained to conduct a search for the right person. It is not unusual that a specific skills set is not available in Australia and we need to look overseas.
- End users advertise projects and applicants, who are not employees of the CMC, may apply. If they are acceptable, end users are often reluctant to take on permanent head count to fill short term gaps. They contact a Contract Management Company to employ the person.

Referrals of employees from recruitment firms

There are various reasons why a recruitment firm may refer FNs to Contract Management Companies. These contacts may or may not have been employees of recruitment firms.

- LHFs that do not provide contract management services are often approached by individuals seeking contracting assignments. The LHF may refer the person to a CMC. The CMC would subject the person to its usual screening processes, including a consideration of the person's skills set, experience and references before employing the person. This may or may not result in the person being contracted back to that LHF unless the person is sponsored by the CMC and then any contract will be directly with the end user. On hiring is neither permitted by DIMA nor conducted by ACPMA members.
- The decision of the LHF not to provide contract management services is a generally a strategic business decision. The CMC business relies heavily on good systems and

processes. It is a specialised service and developing and maintaining complex payroll systems to handle large numbers of individuals is expensive and usually not a core activity of LHFs.

- For LHFs to undertake sponsorship, they need to be in a position to provide continuing work otherwise DIMA regulations may require cancellation of sponsorship. On the other hand, sponsorship by a Contract Management Company generally provides a wider range of opportunities. We deal directly with end users and with a range of LHFs.

(d) Sources of contracting assignments

CMCs conduct a relationship business. They seek out and build relationships with end users and LHFs to maximise business opportunities. These relationships are the foundation of all business won.

Some examples of the rationale/reasons why contracting assignments are referred include:

End users

- End users that advertise projects may be contacted by Contract Management Companies to place a contractor they have available.
- End users are not necessarily structured to source skilled specialists for short term needs. Contract Management Companies have the facilities to do that. An example is that Contract Management Companies' overseas affiliations enable specialist skills which are often only available overseas, to be sourced.
- Contractors provided by a Contract Management Company can serve a "probation" period with no industrial problems on termination of a contract. If the employee is satisfactory and sponsorship can be arranged through the end user, the employee can join the end user's permanent staff.
- Over time end users have become accustomed to CMCs providing professionals. Lower costs for service as the "middle man", the LHF, is eliminated from the costs structure.

The terms and conditions that are negotiated with the end users would cover, inter alia, the key personnel to be involved, services to be provided, commencement date, contract charge rate, location for provision of service, termination date and extension periods. The contract can be prepared either by the end user or the Contract Management Company depending on the end user's preference

LHFs

- Contract Management Companies market themselves to LHFs through advertising, sales calls, promotional material and sales aids and presentations on topical issues. above, the LHFs are an important source of referral at both ends of our business.
- LHFs that do not provide contract management services are often approached by end user clients to fill short term positions. The LHF will approach CMCs to see whether they have the required skills available. If so, the CMC will contract with the LHF or directly with the end user.

- The situation may also arise that an LHF has been approached either by an end user or has received a referral of an individual seeking sponsorship for a known role. If the LHF does not provide contract management services, it may refer the person to a CMC. The CMC would be invited to employ the person (subject to its usual screening processes) and enter into a direct contract with the end user.

(e) **Referrals to offshore end users**

CMCs also provide an export channel for skilled professionals to further their careers in many countries including UK, Europe, USA, Canada, NZ, South East Asia, China and Hong Kong.

Enquiries are received from direct end users, offshore recruitment firms via overseas affiliations, overseas affiliations and general awareness through web sites and other advertising. Direct referrals are made to overseas affiliations relating to those wishing to travel to further their careers. These referrals cover both short term assignments during which time the employee remains an Australian resident for tax purposes or for longer terms when the person becomes a resident for tax purposes in the host country. In the latter arrangement, a fee for service would be negotiated with the end user.

The industry is an integral part of employment in Australia.

We emphasise that there are no relevant differences in employment terms or conditions that we offer as against LHFs that we compete against.

APPENDIX B

Code of Conduct

Australian Contract Professions Management Association ('ACPMA')

Introduction

1. This Code of Conduct is a statement of the core values upheld by ACPMA and its members which are; ethical practice, professionalism and credibility. ACPMA and its members aim to apply this Code in all of their dealings.

2. ACPMA operates for the mutual benefit of its Members, their Clients and those who seek employment opportunities with Members of ACPMA. ACPMA aims to foster and promote ethical practice, professionalism and credibility in the Contract Professions Management industry in Australia.

3. All Members of the Association and their employees aspire to the ACPMA core principles and subscribe to this Code.

Ethical Practice

4. ACPMA expects that its Members shall conduct their business legally and ethically and shall not act in a manner likely to bring disrepute to the Industry, ACPMA or its Members as a whole. Members shall endeavour to exceed minimum ethical standards in delivering their services and responding to the needs of their Clients and other industry participants.

5. ACPMA advocates that its Members shall respect and preserve individuals' right to privacy and always ensure that Employee and Candidate personal information is administered in a manner consistent with that right, having regard to the circumstances in which the information was imparted to the Member.

Professionalism

6. ACPMA expects that its Members will endeavour to deliver their services with efficiency and skill and always pursue and elevate industry best practices. Members will diligently meet their undertakings and avoid conflicts of interest. Members will pursue clarity and accuracy in their agreements and will establish and apply efficient and fair dispute resolution procedures and effective disaster management systems.

Credibility

7. ACPMA expects that Members will advertise their services with accuracy and clarity and exercise care and skill in promoting candidates for positions. Members will develop a clear understanding of all relevant Law and ensure their practices and dealings are exemplary in the way they apply the Law. Members will endeavour to ensure that Candidates and Clients have clear understandings of one another's expectations.

8. ACPMA expects that its Members will maintain sufficient transparency and accuracy in their record keeping so as to facilitate timely and thorough responses to the requirements of the Law and its regulators alike.

Definitions

'Code'	means this Code of Conduct
'Member'	means any Member of ACPMA.
'Candidate'	means any person seeking or contemplating a contract of employment with or placement by a Member.
'Employee'	means any individual who has an employment contract with a Member.
'Client'	means an entity or individual from whom a Member receives income.

APPENDIX C

AUSTRALIAN CONTRACT PROFESSIONS MANAGEMENT ASSOCIATION LIMITED

RULES

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TABLE OF CONTENTS

Preface

ACPMA's objective with these Rules is to provide an effective mechanism for upholding ethical work practices in the contract management industry and to establish a minimum standard of conduct for Members to uphold in order to preserve their status as a member of the ACPMA.

When a person or entity becomes a Member of the ACPMA, it agrees to be bound by these Rules.

The ACPMA Board of Directors and/or any Disciplinary Committee established by the Board is charged with the responsibility to enforce these Rules among Members of the ACPMA

It is a tenet of the ACPMA that breaches of these Rules may lead to the cancellation or suspension of Membership of the ACPMA.

The ACPMA Board

1. Definitions

'ACPMA' means the Australian Contract Professions Management Association Limited

'Code' means the ACPMA Code of Conduct

'Candidate' means any person seeking or contemplating a contract of employment with a Member.

'Client' means an entity or individual from whom a Member receives income.

'Compulsory Insurance' means Workers Compensation, Professional Indemnity, Public Liability and Fire, flood and tempest insurance.

'Confidential Information' means any information which may reasonably be regarded as confidential, or which was communicated in circumstances implying an obligation of confidence.

'DIAC' means the Department of Immigration and Citizenship.

'Employee' means any individual who has an employment contract with a Member.

'Member(s)' means a member(s) for the time being of the ACPMA and includes that member's employees and officers.

2. Code of Conduct

2.1 The ACPMA Code of Conduct ('Code') provides a framework for Members to operate their business in a professional and ethical manner.

2.2 Members must always conduct their business and themselves in accordance with the Code.

2.3 Members must always conduct their business and themselves legally and ethically and shall not act in a manner prejudicial to or likely to bring discredit upon the ACPMA and its Members.

3. Commitment to Standards of Ethical Practice

3.1 Members must

(i) ensure that their employees and officers have a thorough knowledge of these Rules and the Code

(ii) provide their employees and officers with appropriate training and development required to uphold these Rules and the standards of professional practice required by the Code.

4. Member - Member Relationship

4.1 A Member must not publicly or in its dealings with Clients or Candidates, defame, demean or ridicule any other Member or the ACPMA.

4.2 A Member ('the first Member') shall not itself or by its officers, Employees or agents knowingly approach, canvas, solicit, lure or attract any Candidate or Client at the time under contract to another Member ('the second Member) with whom an Employee of the first Member had professional contact whilst engaged by the second Member during the preceding six (6) months.

4.3 A Member shall not itself or by its officers or Employees divulge, allow to be divulged or seek access to any confidential information belonging to another Member and relating to any Employee or Candidate or Client with whom the person holding the confidential information had professional contact during the six (6) months immediately preceding the cessation of his or her previous engagement with another Member.

4.4 A Member ('the first Member') must not divulge or allow to be divulged any confidential information belonging to any other Member or Members by whom the first Member has been engaged as a partner, director, Employee, principal or agent.

5. Member – Employee / Candidate Relationship

5.1 Members must always treat their Employees and Candidates fairly and professionally and abide by the terms of any agreement in good faith.

5.2 Members must first obtain the approval from a Client before referring an Employee or Candidate to the Client for interviews on job openings.

5.3 Members must first obtain the approval of an Employee or Candidate before disclosing their identity and personal details (including curriculum vitas) to a Client(s) or prospective Client(s).

5.4 Members must not knowingly misrepresent the duties; probable duration; hours; remuneration or other terms and conditions or a job opening to an Employee or Candidate and must always provide the Employee or Candidate with information in conformance with the best knowledge of the Member.

5.5 Members must use information about an Employee or Candidate only for the purpose for which it was requested by the Member or for which the Member has the permission of the Employee or Candidate.

5.6 Members must not entice an Employee or Candidate to breach his or her contract with another Member or with a Client of another Member.

5.7 Members must ensure that they enter into contracts of employment with their Employees that are clear and concise and which oblige the Employees to abide by these Rules and the Code.

5.8 Members must not pay or offer secret inducements (not forming part of a remuneration arrangement recorded in writing) to Clients, Employees or Candidates to secure placements with a Client.

6. Guidelines on Remuneration

6.1 Members must ensure that each component of remuneration paid to an Employee must be determined and paid in accordance with a written contract of employment and all applicable laws.

6.2 Members must always act within the Guidelines established between the ACPMA and the Australian Taxation Office in establishing, recording and reporting on remuneration arrangements.

7. DIAC Sponsorship compliance

7.1. Members who undertake sponsorship obligations under Subclass 457 (Business (Long Stay)) visas must comply with relevant DIAC legislation, its regulations and any DIAC Procedures Advice Manuals (PAMS).

7.2. Members must maintain all records which will enable full compliance to be assessed by DIAC.

8. Security

8.1 Members must ensure that their premises, document storage and computer networks are kept secure and that access to them is strictly controlled.

8.2 Members must ensure that all Client, Employee and Candidate data is kept and dealt with in a manner designed to meet a Member's obligations under the

Privacy laws of the Commonwealth of Australia and to preserve the confidential nature of such information and to respect the privacy of its owner.

8.3 Members must take all reasonable steps and organize their affairs so as to ensure continuity of service in the event of catastrophe or disaster including preparing and maintaining a formal disaster recovery plan.

9. Service Standards

9.1 Members must maintain a high level of service in their dealings with Clients, Employees and Candidates and in the event of any service being deficient or otherwise the subject of reasonable complaint by a Client, Employee or Candidate, the Member must do everything reasonably required of it to rectify the error and re-perform the service without cost to the Client, Employee or Candidate.

10. Insurance

10.1 A Member must ensure all compulsory insurances are maintained.

11. Advertising

11.1 Members shall not advertise in a misleading manner or in a manner that would directly or indirectly undermine the reputation of another Member or Members or the ACPMA or where it is not consistent with other clauses of these rules.

12. Compliance Monitoring

12.1 Each Member must complete and submit a Compliance Monitoring Declaration in the form set out in Schedule 1 by 31 July each year in respect of the year ending on the immediately preceding 30 June.

12.2 Members must complete the declaration accurately and must comply with any enquiry or request for records or information made by the ACPMA in relation to their declaration.

13. Procedure in case of a breach of these Rules

13.1 The following procedure is to be followed in the event of a breach or allegation of breach of these Rules by a Member.

13.2 Upon receipt of a complaint or allegation of breach, the ACPMA shall

(i) Determine if the person(s) or entity(ies) concerned is a Member.

(ii) If it involves a Member, request a report from the informant of the alleged breach to be made in writing substantially in the Report Form contained in schedule 2.

(iii) If the informant is not a member, the ACPMA will provide a copy of the Code (but not these Rules) to the informant.

(iv) Provide a copy of the report to the Member(s) accused of the alleged breach.

(v) Provide a copy of the report to any Member involved as a victim or otherwise in the alleged breach.

(vi) Refer the report and any associated correspondence or documents to the Disciplinary Committee established under rule 13.3.

13.3 The ACPMA shall, if it has not already done so, establish a Disciplinary Committee comprising at least three people, two of whom must be representatives of Members of the ACPMA (who are not members referred to in 13.2(iv) or (v). The third Member of the Committee will be drawn from the business community at large and will have attributes which compliment the activities of the Committee and may be from one of the legal or accounting professions. Each Member will serve on the Committee for a maximum period of 2 years unless otherwise determined by the Board and cannot be reappointed for two successive terms.

13.4 The Disciplinary Committee shall deal with any allegation of breach reported in the manner set out in 13.2 in the following manner:

(i) Ensure notice is given to any affected Member of the allegation of breach, a copy of the report and any other information reasonably required by the affected Member to understand the allegations made against them is provided to them.

(ii) Determine whether there is a prima facie case to support the contention that any part of these Rules or the Code have been breached and identify the relevant part of these Rules or Code.

(iii) If there is no prima facie case, the committee shall resolve as such and advise the informant and any affected Member of this determination.

(iv) If the Committee resolves that there is a prima facie case for breach against a member, the committee should:

(a) advise the affected Member(s) of this decision

(b) require the affected Member(s) to make such written submissions as they wish to make in response or in answer to the alleged breach within such time as is reasonable given the circumstances, but in any case not longer than 30 days;

(c) conduct such enquiries and investigations as the committee in its sole discretion considers reasonable.

(v) A member notified of an allegation of breach must provide a written response to the allegation within the time specified by the committee in accordance with Rule 13.4(iv)(b).

13.5 The committee must consider all evidence put before it or which it has collected and any submission made by the affected Member(s) before adjudicating as to whether the affected Member(s) have committed a breach of these Rules or the Code.

13.6 The committee must give notice in writing to the affected member(s) and the informant of its decision.

13.7 If it is determined that a breach of these Rules or the Code has occurred the Committee shall make a recommendation to the Board of ACPMA as to any penalty, which should apply being one of or a combination of the following:

(a) a warning;

(b) a fine of not more than $10,000;

(c) a requirement that the breach be rectified within a stipulated time;

(d) suspension of Membership for up to 12 months; and

(e) cancellation of Membership and disqualification from re-applying.

13.8 The Board of the ACPMA shall then meet to determine whether to adopt the committee's recommendation as to penalty or to formulate a penalty of its own. The Board shall then notify the affected Member of the penalty and carry it into effect.

13.9 Cancellation of Membership requires the immediate deletion of the name from any register of members and disqualify the member from re-applying for

membership for the period determined by the committee, or if not determined then permanently.

SCHEDULE 1

COMPLIANCE MONITORING DECLARATION

(To be completed annually by every Member and submitted to the Secretariat by 31 July)

Name of Member _____

Period covered 1 July to 30 June .

Name of contact person _____

One behalf of (insert name of Member) I declare that, I am properly authorised by (name of member) to complete this declaration and that after due enquiry and to the best of my and (name of member)'s knowledge and belief, during the period noted above:

1. There have not been any breaches of the Code.
2. There have not been any breaches of the Rules

OR

(name of member) has committed the following actual or possible breaches of the Rules and Code:

3. The Guidelines on Remuneration and DIAC Sponsorship have been observed

_____

(Signature of Declarant)

_____

(Name of Declarent)

_____

(Date)

SCHEDULE 2

REPORT FORM

To the Chairman,
AUSTRALIAN CONTRACT PROFESSIONS MANAGEMENT ASSOCIATION LIMITED
Level 1, 104 Mount Street, North Sydney NSW 2060 Australia

I/we wish to advise an alleged breach of the Rules/Code of Conduct by a Member of ACPMA. I/we give the following information:

My/our name:

My/our Company name:

Address:

Post Code:

Contact Person:

Phone: Fax: Email:

Name of Member involved:

Code of Conduct clause(s) claimed to have been breached:

Rule(s) claimed to have been breached:

Details of the Incident and a description of the available evidence of the breach:

Signed: Date:

APPENDIX E

JOB DESCRIPTION

NAME	
POSITION	Web Applications Designer & Developer
DEPARTMENT / SITE	
MANAGER	

KEY RESPONSIBILITIES
Looking after aspects of ICT, especially software systems, and related support mainly for Australia but also for overseas offices

MAJOR FUNCTIONS & TASKS
PAYX application lead developer & designer
PAYX & xxxx projects coordinator
Software specification, design, implementation, testing, deployment & support
General Software User Support and troubleshooting On the job training to be provided to other members of the IT team

ENTRY QUALIFICATIONS
1 –2 years experience in the IT industry or tertiary qualification
Excellent knowledge of PHP & MySQL
Experience in CVS, Linux, UML, Object Oriented programming
Excellent communication skills

SAFETY RESPONSIBILITIES
Take reasonable care for the health and safety of other people at work that may be affected by your acts or omissions.
Co-operate with the safety representatives to allow them to comply with OH&S legislation on behalf of xxxxx.
Not to intentionally or recklessly interfere or misuse safety equipment or other item provided in the interest of OH&S.
Must not intentionally hinder aid to injured workers without reason.

Must not hinder the doing of an act or thing to avoid or prevent risks.
Must not refuse a reasonable request to give aid to an injured person.
Must not refuse a reasonable request to do any act or thing to avoid or prevent OH&S risks.
Must not with a reasonable excuse create a risk or appearance of a risk with the intention of causing a disruption at that workplace.
Take reasonable steps to prevent risks by notifying the safety representative through the email system of any OHS issues.
Report any injury you sustain to your supervisor immediately and have it recorded in the injury report book.
Check on a daily basis for new OH&S issues that are displayed on the notice boards.
Conduct risks analysis on tasks, jobs and equipment as required by OH&S policies and procedures.
Must comply with all company policies and procedures.

APPENDIX E

Job Title: **Project Engineer**

Location: **Pymble**

Job Summary: AMIS (Asset Management Information System) implementation, support and training.

Key Accountabilities

1. *AMIS Implementation*
   - Responsible for the initial data set-up of databases and on-going data maintenance using SQL
   - Responsible for AMIS system testing to ensure the system meeting requirements.
   - Responsible for creating Web-based reports
   - Provide assistance in customised Training Manual and training of new users.
   - Quarterly review of system and procedures.
2. *System Support*
   - Act as the first point of contact for system issues.
   - Provide hands-on support / trouble-shooter to users.
   - Liaise with customers and suppliers to better understand business requirements to better utilisation of system.
   - Develop management reports.
3. *System Development*
   - Assist in the development and testing of in-house developed hand-held device based software for field data collection.
   - Assist in the development and testing of axim's website for easy users access and reporting function

Selection Criteria

- Must have practical knowledge of Oracle SQL and PL/SQL language
- and have exposure to database management including Oracle RDBMS and Microsoft SQL Server
- Experiences of using other computer programming languages such as C##, Visual Basic and Microsoft .NET development environment
- Knowledge to make effective use of Geographical Information Systems would be an advantage

- Possesses high level of analytical and problem solving skills as well as having own initiative
- Ability to work independently and as part of the implementation team with minimum supervision
- Good oral and written communication skills and ability to communicate with people at all levels
- Be prepared to travel inter-state when required

APPENDIX E

Tasks and responsibilities

1. DSP V1.5 tasks and responsibilities

(a) DSP GT V1.5 knowledge transfer

- Conduct a complete DSP V1.5 knowledge transfer to the GC AOA DSP team.
- It must include the complete knowledge transfer of
  - DSP V1.5 delta functionality of all the modules.
  - V1.5 Configuration requirements of all modules.
  - V1.5 Master data requirements of all modules.
- Special attention must be given to ensure proper understanding and documentation of new developments, for example:
  - Split architecture
  - IMSP changed interfaces
  - CRM interfacing
  - Other developments
- Timing
  - The knowledge transfer must be completed to the DSP Application Specialist within one month of commencing service.
  - Knowledge transfer to the other members of the team will be planned for later dates. This must be completed within six months of commencing service.
- Travel requirements
  - This might require travel and stay for short periods in the markets.

(b) Documentation

- Update the DSP Implementation guidelines to take account of V1.5 changes.
- Assist with the creation of DSP V1.5 training documentation.
- Timing
  - This task will be ongoing during the Term and will be managed as required.

(c) Market Implementation

- Support the DSP Application Specialist in the Markets during the implementation of DSP V1.5 in the markets.
- Support the V1.5 markets during and after go-live.
- Travel requirements
  - This might require travel and stay for short periods in the markets
- Timing
  - This task will be ongoing during his period of contract and will be managed as required.

(d) Live Market Support

- Support DSP V1.5 live markets
- Train at least two DSP support personnel to the level of competence required to support the DSP V1.0 and V1.5 live markets.
- Timing:
  - This has to be completed within six months of the appointment of the [redacted] support personnel.
  - The latest date estimated is end December 2004.

2. General responsibilities

The role also requires that the Key Personnel will provide assistance with other tasks as the need may arise. This will the include support of DSP GT V1.0. It will include the following:

- Assess business requirements to identify the most effective way in which an application can be used to support the requirement.
- Collaborate with Business Analysts and colleagues in the establishment and specification of the inter-relationships, between business processes.
- Collaborate with Business Analysts and colleagues in establishment of an optimal design on how the SAP-APO DSP Solution can be set-up, modeled, and used to support business requirements.
- Specify application configuration settings, enhancements, and/or extensions to meet business requirements.
- Specify interface requirements between SAP-APO and complimentary applications.
- Prepare or refine test scripts to reflect enhancements and interface requirements.
- Conduct application-level tests to ensure that the application and interfaces behave as specified.
- Participate and provide assistance in end-to-end process integration tests.
- Provide the necessary input in cases were enhancements require a change to user-system interaction.
- Provide the GC specialized assistance in the resolution of business application-related problems (level 3) and initiate corrective action or change request to prevent the recurrence of the same problem.
- Perform administrative reporting tasks as required.