

**Senate Standing Committee on Education Employment and Workplace Relations**

**QUESTIONS ON NOTICE  
Supplementary Budget Estimates 2010-2011**

**Agency - Fair Work Ombudsman**

**DEEWR Question No.EW0551\_11**

**Senator Ryan asked on 20/10/2010, Hansard page 17.**

**Question**

**FWO- APPOINTING FAIR WORK INSPECTORS**

Senator RYAN—Are most contracts with those states publicly available? Mr Wilson—They are public documents. There is an element of commercial in confidence with them. I am not sure I would want to have them completely released, put it that way. Senator RYAN—You say they are public documents. Are they public at the moment? Mr Wilson—No, they are not public at the moment. They are public in the sense that they are a document between two public service agencies— Senator RYAN—How is that commercial in confidence? am not sure I would want every state to know exactly the terms on which other states agreed to provide services. Senator Chris Evans—Senator, are you after the commercial aspects of that or are you after something else? Senator RYAN—I would appreciate having a look at the contracts, but if the numbers are the sensitive part, as opposed to the terms of the service delivery and various processes, I would be happy for you to delete those. Senator Chris Evans—Let us take it on notice, knowing that that is what you are after. If we can exclude the commercially sensitive bits and we can release it, we will. We will take it on notice formally.

**Answer**

The Fair Work Ombudsman has provided the following response:

Attached is a sample contract for the provision of Services to implement the Fair Work system which is indicative of the contracts between the Fair Work Ombudsman and the state partner agencies. This contract has been executed between the state governments of South Australia, New South Wales and Queensland and the Fair Work Ombudsman. The contracts came into effect on 1 January 2010.

**CONTRACT**

CONTRACT FOR THE PROVISION OF SERVICES TO IMPLEMENT THE FAIR  
WORK SYSTEM

**Office of the Fair Work Ombudsman**

ABN 43 884 188 232

**The State of State represented by 'State Agency'**

ABN

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## CONTRACT

### CONTRACT FOR THE PROVISION OF SERVICES TO IMPLEMENT THE FAIR WORK SYSTEM

#### *Date*

This contract is made on 2009.

#### *Parties*

This contract is made between and binds the following Parties:

1. **The Office of the Fair Work Ombudsman** ABN 43 884 188 232 ('**Fair Work Ombudsman**')

AND

2. **The State of State** as represented by 'State Agency' ABN (State Agency')

#### *Context*

This contract is made in the following context:

- A. The Commonwealth and States (in conjunction with other states and territories) are committed to developing a national workplace relations system for the private sector (whether incorporated or not) so that all private sector businesses and employees have access to appropriate levels of support and protection from Government to ensure certainty, fairness and equity in dealing with workplace issues.
- B. **State** has agreed to refer to the Commonwealth its workplace relations powers to achieve a national workplace relations system.
- C. The Fair Work Ombudsman requests the assistance of State Agency in implementing and managing the national workplace relations system in **State**.
- D. **State Agency** agrees to assist the Fair Work Ombudsman in implementing and managing the national workplace relations system in **State** on the following terms and conditions.

#### *Operative Provisions*

### 1. **Interpretation**

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#### 1.1. **Definitions**

1.1.1. In this contract, unless the context indicates otherwise:

**Attachment** means a document attached to this contract or incorporated by reference in the Schedule, and includes the Attachment as amended or replaced from time to time by agreement in writing between the Parties;

**Audit** means an audit carried out by Fair Work Inspectors in

	respect of a targeted employer's business, in particular the examination of the employer's time and wages records. An audit may result from a targeted compliance campaign (national, state or local) or outside of a targeted campaign, as a means of investigating a confidential complaint;
<b>Business Day (in a place)</b>	means a weekday other than a public holiday in the place specified or, if no place is specified, in the State or Territory specified in Item 21 [Applicable Law];
<b>Commencement Date</b>	means the date on which this contract is made, unless otherwise specified in Item 4 [Commencement and Time-frame];
<b>Confidential Information (of State Agency)</b>	means information that is by its nature confidential and is described in Item 16 [State Agency's Confidential Information];
<b>Contract Material</b>	means any Material: <ul style="list-style-type: none"> <li>a. created for the purposes of this contract;</li> <li>b. provided or required to be provided to the Fair Work Ombudsman as part of the Services; or</li> <li>c. derived at any time from the Material referred to in paragraphs a or b;</li> </ul>
<b>Contract Officer</b>	means the officer detailed in Item 6, until advised to the contrary;
<b>Fair Work Inspector</b>	means a person appointed an inspector pursuant to section 700 of the <i>Fair Work Act 2009</i> ;
<b>Fair Work Principles</b>	means the principles announced on 31 July 2009 by the Deputy Prime Minister to be followed by Commonwealth agencies to ensure compliance with the <i>Fair Work Act 2009</i> ;
<b>Fair Work System</b>	means the national workplace relations system being developed between the Commonwealth and the States for the private sector (whether incorporated or not);
<b>Fees</b>	means the fees payable for the Services detailed in Item 7;
<b>Fair Work Ombudsman</b>	means the Fair Work Ombudsman appointed under section 687 of the <i>Fair Work Act 2009</i> ;
<b>GST</b>	has the meaning that it has in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> ;
<b>Instalment</b>	means part of the fee payable under clause 5.1.1.a and Item 7 [Fees] in relation to a specified part or the whole of the Services;

<b>Intellectual Property</b>	<p>includes:</p> <ul style="list-style-type: none"> <li>a. all copyright (including rights in relation to phonograms and broadcasts);</li> <li>b. all rights in relation to inventions, trademarks (including service marks), designs and circuit layouts; and</li> <li>c. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,</li> </ul> <p>but does not include:</p> <ul style="list-style-type: none"> <li>d. Moral Rights;</li> <li>e. the non-proprietary rights of performers; or</li> <li>f. rights in relation to Confidential Information;</li> </ul>
<b>Item</b>	means an item in the Schedule;
<b>Material</b>	means any thing in relation to which Intellectual Property rights arise;
<b>Moral Rights</b>	<p>means the following non-proprietary rights of authors of copyright Material:</p> <ul style="list-style-type: none"> <li>a. the right of attribution of authorship;</li> <li>b. the right of integrity of authorship; and</li> <li>c. the right not to have authorship falsely attributed;</li> </ul>
<b>National Workplace Relations System</b>	means the new workplace relations system put in place by the <i>Fair Work Act 2009</i> ;
<b>Official Information</b>	means any information developed, received or collected by or on behalf of the Fair Work Ombudsman to which State Agency gains access under or in connection with this contract, and includes the Contract Material and the terms of the contract;
<b>Fair Work Ombudsman</b>	means the Office of the Fair Work Ombudsman established under section 696 of the <i>Fair Work Act 2009</i> ;
<b>Fair Work Ombudsman Material</b>	<p>means any Material:</p> <ul style="list-style-type: none"> <li>a. provided by the Fair Work Ombudsman to State Agency for the purposes of this contract; or</li> <li>b. derived at any time from the Material referred to in paragraph a;</li> </ul>
<b>Parties</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a. the Fair Work Ombudsman; and</li> </ul>

b. the State of **State** as represented by State Agency;

**Personnel**

means:

- a. in relation to State Agency - any natural person who is an officer, employee, agent or professional advisor of State Agency; any subcontractor of State Agency or any of their Personnel; and
- b. in relation to the Fair Work Ombudsman - any natural person, other than a person referred to in paragraph a, who is an officer, employee, agent or professional advisor of the Fair Work Ombudsman;

**Project Officer**

means the person specified (by name or position) in Item 6 [Project Officer] or any substitute notified to State Agency;

**Schedule**

means the schedule to this contract entitled 'Contract Details', and includes the schedule as amended or replaced from time to time by agreement in writing between the Parties;

**Services**

means the Services described in Item 1 [Services];

**Statement of Requirement**

means the Attachment titled 'Statement of Requirement';

**Term**

means the term detailed in Item 4.

**1.2. Interpretation**

1.2.1. In this contract, unless the contrary intention appears:

- a. words importing a gender include any other gender;
- b. words in the singular include the plural and words in the plural include the singular;
- c. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
- d. words importing a person include a partnership and a body whether corporate or otherwise;
- e. a reference to dollars is a reference to Australian dollars;
- f. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;
- g. if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- h. a reference to an Item is a reference to an Item in the Schedule;



- i. the Schedule and the Attachment forms part of this contract;
- j. if any conflict arises between the terms and conditions contained in the clauses of this contract and any part of the Schedule (and Attachment), the terms and conditions of the clauses prevail;
- k. if any conflict arises between any part of the Schedule and any part of the Attachment, the Schedule prevails; and
- l. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.

### **1.3. Guidance on construction of contract**

- 1.3.1. This contract records the entire agreement between the Parties in relation to its subject matter.
- 1.3.2. As far as possible all provisions of this contract will be construed so as not to be void or otherwise unenforceable.
- 1.3.3. If anything in this contract is void or otherwise unenforceable then it will be severed and the rest of the contract remains in force.
- 1.3.4. A provision of this contract will not be construed to the disadvantage of a Party solely on the basis that it proposed that provision.

### **1.4. Commencement**

- 1.4.1. The terms of this contract apply on and from the Commencement Date.

## **2. Roles and Responsibilities of the Parties**

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### **2.1. Principal obligations of the Fair Work Ombudsman**

- 2.1.1. The Fair Work Ombudsman agrees during the Term with the assistance of State Agency (in accordance with this contract):-
  - a. to undertake Investigations into private sector workplace matters in **State**;
  - b. to undertake additional associated activity (such as conducting Audits, issuing compliance notices, conducting litigation and issuing media releases) to support the Investigations;
  - c. to provide transitional educational Services to private sector employers transferring to the National Workplace Relations System to enable employers to better understand their workplace obligations;
  - d. to provide advisory calls via the Fair Work Ombudsman Contact Centre.

### **2.2. Principal obligations of State Agency**

- 2.2.1. State agency agrees to:-
  - a. perform the Services as specified in Item 1 [Services];

- b. provide the reports detailed in the Statement of Requirement;
  - c. on request from the Fair Work Ombudsman and in accordance with any time frame specified by the Fair Work Ombudsman, provide information to the Fair Work Ombudsman in relation to the Services. This may include, but is not limited to, information necessary to enable the Fair Work Ombudsman to discharge its obligations and functions as prescribed in the *Fair Work Act 2009*, *Ombudsman Act 1976* and the *Freedom of Information Act 1981*;
  - d. adopt relevant best practice, including any Fair Work Ombudsman, Commonwealth or industry standards and guidelines specified in Item 3 [Policies, Standards and Guidelines];
  - e. comply with the time frame for the performance of the Services determined by the Project Officer (after consultation with the Partnership Management Committee);
  - f. submit invoices, and any required supporting documents, in the manner specified in Item 5 [Invoicing and Payment]; and
  - g. seek Fair Work Ombudsman approval prior to making public comment, including but not limited to public comment to media outlets, regarding its performance of Services under the contract.
- 2.2.2. State Agency must comply with all directions of the Fair Work Ombudsman in the provision of the Services.
- 2.2.3. All State Agency Personnel must comply with directions given by the Fair Work Ombudsman, including but not limited to complying with directions issued in accordance with sections 704 and 705 of the *Fair Work Act 2009*.
- 2.2.4. State Agency agrees to keep adequate books and records, in accordance with Australian accounting standards, in sufficient detail to enable the amounts payable by the Fair Work Ombudsman under this contract to be determined.
- 2.3. No assigning or subcontracting**
- 2.3.1. State Agency must not assign or subcontract the performance of the Services (or any aspect of the performance of the Services) without the prior written approval of the Fair Work Ombudsman. Approval to any assignment or subcontracting of the provision of any part of the Services may be subject to such conditions as the Fair Work Ombudsman deems fit, including compliance with the Fair Work Principles.
- 2.4. Responsibility of State Agency**
- 2.4.1. State Agency is fully responsible for the performance of the Services and for ensuring compliance with the requirements of this contract, and will not be relieved of that responsibility because of any:
- a. subcontracting or assignment of the Services;

- b. acceptance by the Fair Work Ombudsman of State Agency Personnel; or
- c. payment made to the State Agency on account of the Services.

**3. Liaison between the Parties**

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**3.1. Fair Work Ombudsman Project Officer**

3.1.1. Until advised to the contrary, the Fair Work Ombudsman Project Officer is detailed in Item 6. The Project Officer has full authority to act on behalf of the Fair Work Ombudsman under this contract.

3.1.2. The Fair Work Ombudsman Project Officer may by written notice to the State Agency authorise others (who may be named personally or on the basis of a specified role in the Fair Work Ombudsman) to act on his/her behalf for the purpose of this Contract. Until their authority is revoked, the authorised person has the full authority of the Project Officer unless the Project Officer advises otherwise.

**3.2. Contract Officer**

3.2.1. Until advised to the contrary, the Contract Officer is detailed in Item 6. The Contract Officer has full authority to act on behalf of the State Agency under this contract.

**3.3. Partnership Management Committee**

3.3.1. The Partnership Management Committee is established to manage and oversee the provision of the Services.

3.3.2. The Partnership Management Committee shall consist of the following officers:

**Fair Work Ombudsman**

**State Agency**

Executive Director – Regional Services and Targeting

to be inserted by State

Executive Director – Customer Contact

to be inserted by State

3.3.3. The Partnership Management Committee will meet as required (and not less than monthly) to review workload, work allocation, workflow, performance against targets, priorities, objectives and opportunities for co-ordinated activity, training requirements, the potential co-location of staff and other associated matters. The Parties shall also use the Partnership Management Committee as an initial forum to resolve issues and disputes that may arise in the provision of the Services.

3.3.4. If the Parties are unable to resolve any issues or disputes that arise in the provision of the Services, the matter shall be determined by the Project Officer. The State Agency may dispute any determination of the Project Officer in

accordance with the Dispute Resolution provisions of this contract. Pending the review of the Project Officer's determination pursuant to the Dispute Resolution provisions, the State Agency must continue to perform the Services in accordance with the Project Officer's determination.

- 3.3.5. The Partnership Management Committee has no power to vary any provision of this contract. If any decision of the Partnership Management Committee varies this contract, it will be of no force and effect unless agreed to in writing by the Parties.

#### **4. State Agency Personnel**

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##### **4.1. State Agency Personnel to be of good character**

- 4.1.1. Subject to the next clause, State Agency must ensure that all Personnel it uses in the provision of the Services are of good character and are appointed as Fair Work Inspectors.
- 4.1.2. State Agency Personnel engaged in providing direct referral Services and other functions approved by the Fair Work Ombudsman are not required to be appointed as Fair Work Inspectors.
- 4.1.3. State Agency must ensure that all Personnel it uses in the provision of the Services comply with any directions issued by the Fair Work Ombudsman in addition to any particular directions issued under this contract.

##### **4.2. Removal and replacement of State Agency Personnel**

- 4.2.1. State Agency agrees, at the request of the Fair Work Ombudsman acting in its absolute discretion, to remove any person used in the provision of the Services from work in relation to the Services.
- 4.2.2. State Agency will provide replacement Personnel acceptable to the Fair Work Ombudsman at no additional cost and at the earliest opportunity.

##### **4.3. Training**

- 4.3.1. The Fair Work Ombudsman will provide mandatory training to all State Agency Personnel who will be involved in the provision of the Services.
- 4.3.2. State Agency must ensure that all of its Personnel attend all mandatory training. Introductory mandatory training must be completed by State Agency Personnel within 3 months of appointment as Fair Work Inspectors. Any further mandatory training (and the time frame within which it must be completed) will be determined by the Partnership Management Committee or the Project Officer.
- 4.3.3. The Fair Work Ombudsman will provide mandatory training at no cost.
- 4.3.4. State Agency may request additional training to that already provided by the Fair Work Ombudsman. The cost of providing additional training is to be covered by State Agency or as determined by the Partnership Management Committee.

- 4.3.5. All costs of travel and accommodation related to training (including training provided interstate) will be met by State Agency. (State Agency agrees to allow one interstate training session per person involved in the provision of the Services, per year.)

## **5. Fees, allowances and assistance**

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### **5.1. Principal obligations of Fair Work Ombudsman**

- 5.1.1. The Fair Work Ombudsman agrees to:
- a. pay the Fees in the Instalments specified in Item 7 [Fees];
  - b. make all payments as and when specified in Item 5 [Invoicing and Payment]; and
  - c. provide facilities and assistance as specified in Item 9 [Facilities and Assistance].

### **5.2. Indexation**

- 5.2.1. The Parties agree that the Fees agreed to be paid for the Services will be indexed annually in accordance with the requirements of Item 7.

### **5.3. Fair Work Ombudsman's right to defer payment**

- 5.3.1. The Fair Work Ombudsman will be entitled (in addition and without prejudice to any other right it may have) to defer payment or reduce the amount of any Fee or any Instalment if and for so long as State Agency has not completed, to the satisfaction of the Fair Work Ombudsman, that part of the Services to which the Instalment relates.

### **5.4. GST**

- 5.4.1. Unless otherwise indicated, the Fees and all other consideration for any supply made under this contract is exclusive of any GST imposed on the supply.
- 5.4.2. If one Party (the supplier) makes a taxable supply to the other Party (the recipient) under this contract, on receipt of a tax invoice from the supplier, the recipient will pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.
- 5.4.3. No Party may claim or retain from the other Party any amount in relation to a supply made under this contract for which the first Party can obtain an input tax credit or decreasing adjustment.

## **6. Intellectual Property**

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### **6.1. Use of Fair Work Ombudsman Material**

- 6.1.1. The Fair Work Ombudsman agrees to provide Material to State Agency as specified in Item 10 [Fair Work Ombudsman Materials].

6.1.2. The Fair Work Ombudsman grants (or will procure) a royalty-free, non-exclusive licence for State Agency to use, reproduce and adapt the Fair Work Ombudsman Material for the purposes of this contract.

6.1.3. State Agency agrees to use the Fair Work Ombudsman Material strictly in accordance with any conditions or restrictions set out in Item 11 [Use of Fair Work Ombudsman Materials], and any direction from the Fair Work Ombudsman.

## **6.2. Rights in Contract Material**

6.2.1. Intellectual Property in all Contract Material vests or will vest in the Fair Work Ombudsman.

6.2.2. Clause 6.2.1 does not affect the ownership of Intellectual Property in:

- a. any Fair Work Ombudsman Material incorporated into Contract Material; or
- b. any Material in existence at the Commencement Date and specified in Item 12 [Existing Material].

6.2.3. State Agency grants to (or will procure for) the Fair Work Ombudsman a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, distribute and communicate any Existing Material referred to in clause 6.2.2.b, in conjunction with the Contract Material.

6.2.4. State Agency agrees, on request by the Fair Work Ombudsman, to create, sign, execute or otherwise deal with any document necessary or desirable to give effect to this clause 6.2.

6.2.5. State Agency warrants that:

- a. it is entitled; or
- b. it will be entitled at the relevant time,

to deal with the Intellectual Property in the Contract Material in the manner provided for in this clause 6.2.

## **6.3. Moral Rights**

6.3.1. In this clause 6.3:

- Permitted Acts** means any of the following classes or types of acts or omissions:
- a. using, reproducing, adapting or exploiting all or any part of the Contract Material, with or without attribution or authorship;
  - b. supplementing the Contract Material with any other Material;
  - c. using the Contract Material in a different context to

that originally envisaged; and

- d. the acts or omissions, specifically set out in Item 13 [Moral Rights];

but does not include false attribution of authorship.

6.3.2. State Agency agrees to obtain from each author a written consent which extends directly or indirectly to the performance of the Permitted Acts by the Fair Work Ombudsman or any person claiming under or through the Fair Work Ombudsman (whether occurring before or after the consent is given) and, on request, to provide the executed original of any such consent to the Fair Work Ombudsman.

6.3.3. This clause 6.3 does not apply to any Fair Work Ombudsman Material incorporated in the Contract Material.

## **7. Confidentiality of Official Information and other security obligations**

### **7.1. Interpretation**

7.1.1. In this clause 7:

**Official Resources** includes:  
a. people who work for or with the Fair Work Ombudsman; and  
b. assets belonging to (even if in the possession of contracted providers) or in the possession of the Fair Work Ombudsman;

**Security Classified Resources** means Official Resources that, if compromised, could have adverse consequences for the Fair Work Ombudsman; and

**Security Incident** means any event or occurrence that:-  
a. compromises, or has the potential to compromise; or  
b. violates or has the potential to violate;  
the operations or property (including Official Resources and Official Information) of the Fair Work Ombudsman, its employees, contractors, visitors, clients.

### **7.2. Confidentiality of Official Information**

7.2.1. State Agency must not, without prior written authorisation of the Fair Work Ombudsman, disclose any Official Information to any person (unless required to do so by law).

7.2.2. State Agency is authorised to provide Official Information to those Personnel who require access for the purposes of this contract.

- 7.2.3. State Agency is also authorised to provide to the public any Official Information in the nature of Fair Work Ombudsman Material or Contract Material developed with the intention of explaining to the public the operation of the Fair Work System and the rights and obligations of employees and employers under the system.
- 7.2.4. State Agency agrees, on request by the Fair Work Ombudsman at any time, to arrange for the Personnel referred to in clause 7.2.2:-
- a. to have appropriate security clearance;
  - b. to give a written undertaking in a form acceptable to the Fair Work Ombudsman relating to the use and non-disclosure of Official Information.
- 7.2.5. State Agency agrees to secure all Official Information against loss and unauthorised access, use, modification or disclosure.

### **7.3. Other security obligations of State Agency**

- 7.3.1. State Agency agrees:
- a. to ensure that all its Personnel that require access to Security Classified Resources have obtained the appropriate security clearance;
  - b. to make its Personnel available to attend any security training provided by the Fair Work Ombudsman;
  - c. to notify the Fair Work Ombudsman immediately if it becomes aware that a Security Incident has occurred and otherwise implement the Fair Work Ombudsman's procedures for Security Incident reporting as advised by the Fair Work Ombudsman from time to time;
  - d. not to perform the Services outside Australia without the Fair Work Ombudsman's prior written approval; and
  - e. to comply with the additional security requirements specified in Item 14 [Security Requirements], if any, and any variations or additions to those requirements as notified by the Fair Work Ombudsman from time to time.
- 7.3.2. State Agency agrees to implement security procedures to ensure that it meets its obligations under this clause 7 and will provide details of these procedures to the Fair Work Ombudsman on request.

## **8. Privacy**

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### **8.1. Interpretation**

- 8.1.1. In this clause 8:

**Information** has the same meaning as it has in the *Privacy Act 1988*  
**Privacy Principle** (Cth).



## **8.2. Obligations of State Agency in relation to privacy**

8.2.1. State Agency agrees, in providing the Services:

- a. not to do any act or engage in any practice which, if done or engaged in by the Fair Work Ombudsman, would be a breach of an Information Privacy Principle; and
- b. to comply with any directions, guidelines, determinations or recommendations referred to in, or relating to the matters set out in, Item 15 [Privacy Directions, Guidelines, Determinations or Recommendations], to the extent that they are consistent with the Information Privacy Principles.

8.2.2. State Agency agrees to notify the Fair Work Ombudsman immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 8.

## **9. Dealing with Copies**

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### **9.1. Interpretation**

9.1.1. In this clause 9:

**Copy** means any document, device, article or medium in which Fair Work Ombudsman Material, Contract Material, or Official Information is embodied.

### **9.2. Actions at end of contract**

9.2.1. State Agency agrees, on expiration or termination of this contract, to deal with all Copies as directed by the Fair Work Ombudsman, subject to any requirement of law binding on State Agency.

## **10. Confidential Information of State Agency**

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### **10.1. Confidential Information not to be disclosed**

10.1.1. Subject to clause 10.2, the Fair Work Ombudsman will not, without the prior written authorisation of State Agency, disclose any Confidential Information of State Agency to a third Party.

### **10.2. Exceptions to obligations**

10.2.1. The obligations of the Fair Work Ombudsman under this clause 10 will not be taken to have been breached to the extent that Confidential Information:

- a. is disclosed by the Fair Work Ombudsman to its Personnel solely in order to comply with its obligations, or to exercise its rights, under this contract;
- b. is disclosed by the Fair Work Ombudsman to its internal management Personnel, solely to enable effective management or auditing of contract-related activities;

- c. is disclosed by the Fair Work Ombudsman to the responsible Minister;
  - d. is disclosed by the Fair Work Ombudsman in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
  - e. is shared by the Fair Work Ombudsman within the Fair Work Ombudsman's organisation, or with another Commonwealth agency, where this serves the Commonwealth's legitimate interests;
  - f. is authorised or required by law to be disclosed; or
  - g. is in the public domain otherwise than due to a breach of this clause 10.
- 10.2.2. Where the Fair Work Ombudsman discloses Confidential Information to another person pursuant to clauses 10.2.1.a - 10.2.1.e, the Fair Work Ombudsman will notify the receiving person that the information is confidential.
- 10.2.3. In the circumstances referred to in clauses 10.2.1.a, 10.2.1.b and 10.2.1.e, the Fair Work Ombudsman agrees not to provide the information unless the receiving person agrees to keep the information confidential.

### **10.3. Period of confidentiality**

- 10.3.1. The obligations under this clause 10 in relation to an item of information described in Item 16 [State Agency's Confidential Information] continue for the period set out there in respect of that item.

## **11. Indemnity**

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### **11.1. Exclusion of legislative regimes**

- 11.1.1. To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against a Party under or in connection with this contract.

### **11.2. Indemnity**

- 11.2.1. Each Party indemnifies the other from and against any:
- a. cost or liability incurred by the indemnified Party;
  - b. loss of or damage to property of the indemnified Party; or
  - c. loss or expense incurred by the indemnified Party in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the indemnified Party,
- arising from either:
- a. a breach by the non indemnified Party of this contract; or
  - b. an act or omission on the part of the non indemnified Party or its Personnel in connection with this contract.

- 11.2.2. The non indemnified Party's liability to indemnify the indemnified Party under clause 11.2.1 will be reduced proportionately to the extent that any act or omission on the part of the indemnified Party or its Personnel contributed to the relevant cost, liability, loss, damage or expense.
- 11.2.3. The right of the indemnified Party to be indemnified under this clause 11.2 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the indemnified Party is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.

## **12. Dispute Resolution**

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### **12.1. Procedure for dispute resolution**

- 12.1.1. The Parties agree that a dispute arising under this contract will be dealt with as follows:
- a. the Party claiming that there is a dispute will refer the matter to the Partnership Management Committee for initial discussion and resolution;
  - b. if the dispute is unable to be resolved by the Partnership Management Committee, the Party claiming that there is a dispute may give the other Party a notice setting out the nature of the dispute;
  - c. within 5 Business Days, each Party will nominate a representative not having any prior involvement in the dispute;
  - d. the representatives will try to settle the dispute by direct negotiation between themselves;
  - e. failing settlement within a further 10 Business Days, the Parties' Chief Executive Officers will meet to attempt to resolve the dispute;
  - f. If the Chief Executive Officers are unable to resolve the dispute within 10 Business Days, the Parties agree to refer the dispute to an independent third person with power:
    - i. to intervene and direct some form of resolution, in which case the Parties will be bound by that resolution; or
    - ii. to mediate and recommend some form of non-binding resolution;
  - g. the Parties will co-operate fully with any process instigated under clause 12.1.1.f in order to achieve a speedy resolution; and
  - h. if a resolution is not reached within a further 20 Business Days, either Party may commence legal proceedings.

### **12.2. Costs**

- 12.2.1. Each Party will bear its own costs of complying with this clause 12, and the Parties will bear equally the cost of any third person engaged under clause 12.1.1.f.

**12.3. Continued performance**

12.3.1. Despite the existence of a dispute, State Agency will (unless requested in writing by the Fair Work Ombudsman not to do so) continue to perform the Services.

**12.4. Exemption**

12.4.1. This clause 12 does not apply to:

- a. action by either Party under or purportedly under clause 13.1;
- b. action by either Party under or purportedly under clause 13.2; or
- c. legal proceedings by either Party seeking urgent interlocutory relief.

**13. Termination or reduction in scope of Services**

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**13.1. Termination for convenience by the Fair Work Ombudsman**

13.1.1. The Fair Work Ombudsman may by 6 months notice at any time for any reason (including lack of funding or insufficient funding) and in its absolute discretion, terminate this contract or reduce the scope of this contract.

13.1.2. If the Fair Work Ombudsman issues a termination or reduction notice under clause 13.1.1, State Agency agrees, on receipt of a notice of termination or reduction:

- a. to stop or reduce work as specified in the notice;
- b. to take all available steps to minimise loss resulting from that termination or reduction; and
- c. to continue work on any part of the Services not affected by the notice.

13.1.3. In the event of termination under clause 13.1.1, the Fair Work Ombudsman will be liable only:

- a. to pay any Instalment relating to Services completed before the effective date of termination;
- b. to reimburse any expenses State Agency unavoidably incurs relating entirely to Services not covered under clause 13.1.3.a;
- c. to provide the facilities and assistance necessarily required under Item 9 [Facilities and Assistance] before the effective date of termination.

13.1.4. The Fair Work Ombudsman will not be liable to pay amounts under clause 13.1.3.a and 13.1.3.b which would, added to any fees already paid to State Agency under this contract, together exceed the fees set out in Item 7 [Fees].

13.1.5. In the event of a reduction in the scope of the Services under clause 13.1.1, the Fair Work Ombudsman liability to pay fees or allowances, meet costs or provide facilities and assistance under clause 5 will, unless there is agreement in writing

to the contrary, reduce in accordance with the reduction in the Services.

13.1.6. State Agency will not be entitled to compensation for loss of prospective profits.

**13.2. Termination for convenience by State Agency**

13.2.1. State Agency may by 6 months notice, at any time and in its absolute discretion, terminate this contract.

13.2.2. Any notice given by State Agency pursuant to clause 13.2.1 must be given by the Minister responsible for State Agency.

**13.3. Termination for fault**

13.3.1. If a Party fails to satisfy any of its obligations under this contract, then the other Party - if it considers that the failure is:

- a. *not capable of remedy* - may, by notice, terminate the contract immediately; or
- b. *capable of remedy* - may, by notice require that the failure be remedied within the time specified in the notice and, if not remedied within that time, may terminate the contract immediately by giving a second notice.

**14. Notices**

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**14.1. Format, addressing and delivery**

14.1.1. A notice under this contract is only effective if it is in writing, and dealt with as follows:

- a. *if given by State Agency to the Fair Work Ombudsman* - addressed to the Project Officer at the address specified in Item 17 [Fair Work Ombudsman's Address for Notices] or as otherwise notified by the Fair Work Ombudsman; or
- b. *if given by the Fair Work Ombudsman to State Agency* - given by the Project Officer (or any superior officer to the Project Officer) and addressed to the Contract Officer (and marked for attention) at the address specified in Item 18 [State Agency's Address for Notices] or as otherwise notified by State Agency.

14.1.2. A notice is to be:

- a. signed by the person giving the notice and delivered by hand; or
- b. signed by the person giving the notice and sent by pre-paid post; or
- c. transmitted electronically by the person giving the notice by electronic mail or facsimile transmission.

**14.2. When effective**

14.2.1. A notice is deemed to be effected:

- a. *if delivered by hand* - upon delivery to the relevant address;
  - b. *if sent by post* - upon delivery to the relevant address;
  - c. *if transmitted electronically* - upon actual receipt by the addressee.
- 14.2.2. A notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be effected on the next Business Day in that place.

## **15. General provisions**

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### **15.1. Occupational health and safety**

- 15.1.1. State Agency agrees, in carrying out this contract, to comply with:
- a. all relevant legislation, codes of practice and national standards relating to occupational health and safety; and
  - b. all applicable policies and procedures relating to occupational health and safety including those that apply to the Fair Work Ombudsman's premises when using those premises.
- 15.1.2. In the event of any inconsistency between any of the policies and procedures referred to in clause 15.1.1.b, State Agency will comply with those policies and procedures that produce the highest level of health and safety.

### **15.2. Audit and access**

- 15.2.1. State Agency agrees:
- a. to give the Project Officer, or any persons authorised in writing by the Project Officer, access to premises where the Services are being performed; and
  - b. to permit those persons to inspect and take copies of any Material relevant to the Services.
- 15.2.2. The rights referred to in clause 15.2.1. are subject to:
- a. the Fair Work Ombudsman providing reasonable prior notice;
  - b. the reasonable security procedures in place at the premises; and
  - c. if appropriate, execution of a deed of confidentiality by the persons to whom access is given.
- 15.2.3. The Commonwealth Ombudsman, Auditor-General and the Privacy Commissioner are persons authorised for the purposes of this clause 15.2.
- 15.2.4. This clause 15.2 does not detract from the statutory powers of the Commonwealth Ombudsman, Auditor General or the Privacy Commissioner.

**15.3. Insurance**

15.3.1. State Agency agrees:

- a. to effect and maintain the insurance specified in Item 19 [Insurance]; and
- b. on request, to provide proof of insurance acceptable to the Fair Work Ombudsman.

15.3.2. This clause 15.3 continues in operation for so long as any obligations remain in connection with the contract.

**15.4. Extension of provisions to Personnel**

15.4.1. In this clause 15.4:

**Requirement** means an obligation, condition, restriction or prohibition binding on State Agency under this contract.

15.4.2. State Agency agrees to ensure that its Personnel comply with all relevant Requirements.

15.4.3. State Agency agrees to exercise any rights it may have against any of its Personnel in connection with a Requirement in accordance with any reasonable direction by the Fair Work Ombudsman.

**15.5. Conflict of interest**

15.5.1. In this clause 15.5:

**Conflict** means any matter, circumstance, interest, or activity affecting State Agency or its Personnel which may or may appear to impair the ability of State Agency to provide the Services to the Fair Work Ombudsman diligently and independently.

15.5.2. State Agency warrants that, to the best of its knowledge after making diligent inquiry, at the Commencement Date no Conflict exists or is likely to arise in the performance of the Services.

15.5.3. If, during the period of this contract a Conflict arises, or appears likely to arise, State Agency agrees:

- a. to notify the Fair Work Ombudsman immediately;
- b. to make full disclosure of all relevant information relating to the Conflict; and
- c. to take any steps the Fair Work Ombudsman reasonably requires to resolve or otherwise deal with the Conflict.

**15.6. Waiver**

15.6.1. A failure or delay by a Party to exercise any right or remedy it holds under this contract or at law does not operate as a waiver of that right.

15.6.2. A single or partial exercise by a Party of any right or remedy it holds under this contract or at law does not prevent the Party from exercising the right again or to the extent it has not fully exercised the right.

**15.7. Variation**

15.7.1. A variation of this contract is binding only if agreed in writing and signed by the Parties.

**15.8. Survival**

15.8.1. Unless the contrary intention appears, the expiry or earlier termination of this contract will not affect the continued operation of any provision relating to:

- a. licensing of Intellectual Property;
- b. confidentiality;
- c. security;
- d. privacy;
- e. dealing with copies;
- f. books and records;
- g. audit and access;
- h. an indemnity;

or any other provision which expressly or by implication from its nature is intended to continue.

**15.9. Compliance with Legislation**

15.9.1. In this clause 15.9:

**Legislation** means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority.

15.9.2. State Agency agrees to comply with any Legislation applicable to its performance of this contract.

15.9.3. State Agency acknowledges that its attention has been drawn to the fact sheet referred to in Item 20 [Applicable Legislation] which provides details of some Legislation that may be applicable to the performance of the contract.

**15.10. Applicable law**

15.10.1. This contract is to be construed in accordance with, and any matter related to it is to be governed by, the law of the State or Territory specified in Item 21 [Applicable Law].

15.10.2. The Parties submit to the jurisdiction of the courts of that State or Territory.





## **THE SCHEDULE - Contract Details**

### **1. Services**

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See attached Statement of Requirement

### **2. Required Contract Material**

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Reports detailed in the Statement of Requirement

### **3. Policies, Standards and Guidelines**

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(see clause 2.2.1.d)

State Agency will observe (and will ensure that all State Agency Personnel observe) the following policies, practices and procedures in performing the Services:-

- i. Australian Standard for Document Management;
- ii. Australian Public Service Values and Code of Conduct in Practice;
- iii. The Fair Work Principles.

State Agency will, performing functions associated with the provision of the Services, observe (and will ensure that all State Agency Personnel observe) and follow all of the Fair Work Ombudsman 's policies, practices and procedures, including but not limited to:

- i. the Fair Work Ombudsman Standard;
- ii. the Fair Work Ombudsman Field Operations Manual and Guidance Notes.

### **4. Commencement and Time-frame**

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#### **Commencement Date:**

The contract commences on 1 January 2010.

#### **Term:**

This contract will operate for 3 years. The Fair Work Ombudsman has the option to extend the agreement for an additional term of up to 3 years.

### **5. Invoicing and Payment**

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(see clauses 2.2.1.f & 5.1.1.b)

#### **Invoices:**

Invoices will be issued by State Agency at the end of each calendar month.

To be correctly rendered, invoices must include the following information:

- a. the words "tax invoice" stated prominently;

- b. State Agency's name;
- c. State Agency's ABN;
- d. the Fair Work Ombudsman's name and address;
- e. the date of issue of the tax invoice;
- f. the title of this contract and the contract number or purchase order number (if any);
- g. details of fees, allowances and costs including the items to which they relate;
- h. the total amount payable (including GST);
- i. the GST amount shown separately; and
- j. written certification in a form acceptable to the Fair Work Ombudsman that State Agency has paid all remuneration, fees or other amounts payable to its Personnel and/or subcontractors involved in the performance of the contract.

An invoice is not correctly rendered where:

- a. it includes amounts that are not properly payable under this contract or are incorrectly calculated; or
- b. it relates to a payment in relation to which the Fair Work Ombudsman has exercised its rights under clause 5.3 of the contract.

All invoices must be addressed to the Project Officer.

**Payment:**

The due date for payment by the Fair Work Ombudsman is 30 calendar days after delivery of a correctly rendered invoice. If this period ends on a day that is not a Business Day, the due date for payment is the next Business Day.

Payment will be effected by electronic funds transfer (EFT) to the following bank account of State Agency:

\_\_\_\_\_.

**6. Project Officer and Contract Officer**  
(see clause 3)

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6.1.1. The Project Officer is the person for the time-being holding, occupying or performing the duties of project manager, currently Mark Scully, available on telephone number (03) 8509 3018 or via the address and facsimile number set out in Item 17 [Fair Work Ombudsman's Address for Notices].

6.1.2. The Contract Officer is <to be completed by State Agency>.

**7. Fees**  
(see clauses 5.1.1.a & 13.1.3.a)

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The Fair Work Ombudsman will pay the following Fees for each Service:

Service Fee

Per Investigation

Per Audit

Per Transitional Educational Visit

These Fees will be paid in Instalments in accordance with the percentages contained in the following table:

Service	Instalment payable on allocation	Instalment payable on completion
Per Investigation	50%	50%
Per Audit		100%
Per Transitional Educational Visit		100%

Indexation (see clause 5.2) - Fees shall be increased annually with the annual increase in the following index:-

Weighted average of eight capital cities as reported in Table 6401.0 Consumer Price Index, Australia, 1 ALL GROUPS, Index numbers.

## **8. Allowances and Costs**

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Nil. (Fees are inclusive of all Allowances and Costs.)

## **9. Facilities and Assistance** (see clauses 5.1.1.c & 13.1.3.c)

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9.1.1. The Fair Work Ombudsman will provide the following Facilities and Assistance to State Agency:

- a. mandatory training (Clause 4.3);
- b. Fair Work Ombudsman Materials (Clause 6); and
- c. access to the Fair Work Ombudsman's information technology systems, including the case management system.

## **10. Fair Work Ombudsman Materials** (see clause 6)

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10.1.1. The Fair Work Ombudsman will provide the following material under the contract:

- a. fact sheets on workplace rights and obligations;
- b. Fair Work Education and Information Program seminars, web tools and materials;

- c. interactive templates on record keeping and pay slips;
- d. award summary materials;
- e. email updates to Fair Work Ombudsman subscribers;
- f. monthly newsletter to Fair Work Ombudsman subscribers;
- g. i-phone applications; and
- h. HR policy document templates.

**11. Use of Fair Work Ombudsman Material**  
**(see clause 6.1.3)**

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Nil.

**12. Existing Material**  
**(see clause 6.2.2)**

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Nil.

**13. Moral Rights**  
**(see clause 6.3)**

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Nil.

**14. Security Requirements**  
**(see clause 7)**

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Nil.

**15. Privacy Directions, Guidelines, Determinations or Recommendations**  
**(see clause 8.2.1.b)**

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Nil.

**16. State Agency's Confidential Information**  
**(see clause 10)**

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(a) Information contained in contract:

[\(For example\)](#)

[Queensland Office of Fair and Safe Work](#)

Nil

(b) Information obtained or generated in performing contract:

Item –

Period of Confidentiality

Personal and contact details of officers of the Office of Fair and Safe Work Queensland

Term of the Contract

Staffing numbers of the Office of Fair and Safe Work Queensland

System Policies and procedures

<b>Item</b>	<b>Period of Confidentiality</b>
-------------	----------------------------------

^insert relevant items^

(b) Information obtained or generated in performing contract:

<b>Item</b>	<b>Period of Confidentiality</b>
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^insert relevant items^

**17. Fair Work Ombudsman's Address for Notices**  
(see clause 14.1.1.a)

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<b>Physical address</b>	Level 9 414 LaTrobe Street MELBOURNE VIC 3000
<b>Postal address</b>	GPO Box 9887 MELBOURNE VIC 3001
<b>Email</b>	Mark.scully@fwo.gov.au
<b>Facsimile</b>	(02) 6276 7091

**18. State Agency's Address for Notices**  
(see clause 14.1.1.b)

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**Physical address**

**Postal address**

**Email**

**Facsimile**

**19. Insurance**  
(see clause 15.3)

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Required insurance:

- a. workers' compensation as required by law;
- b. public liability insurance to a value of \$10 million; and
- c. professional negligence insurance to a value of \$5 million.

**20. Applicable Legislation**  
(see clause 15.9.3)

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<http://www.ags.gov.au/publications/agspubs/factsheets/index.htm>

**21. Applicable Law**  
(see clause 15.10)

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**State**

## Attachment A - Statement of Requirement

### *Definitions*

1. In this Statement of Requirement the following words have the following meanings:-

Direct Referral Service	means referrals to the Fair Work Ombudsman Contact Centre from customer contact telephone enquiry lines administered by the State Agency;
Investigation	means objective gathering of information by Fair Work Inspectors, to determine whether there has been a contravention of Commonwealth workplace laws;
Litigation File	means a brief of evidence in relation to one or more breaches of the civil penalty provisions of the <i>Fair Work Act 2009</i> or related legislation;
National Workplace Relations System	means the new Workplace Relations System put in place by the <i>Fair Work Act 2009</i> ;
Transitional Educational Visits	means face-to-face visits to employers' workplaces to provide advice and information to employers on their rights and obligations under the <i>Fair Work Act 2009</i> . Fair Work Inspectors engaged by the State Agency will assess the specific need of the employer and provide a tailored suite of educational products prepared by the Fair Work Ombudsman and contact information so the employer can receive follow-up support;

### *Services to be provided by State Agency*

2. State Agency is to provide the Services detailed below to a high professional standard and otherwise in accordance with the requirements detailed in this Statement of Requirement:-
- **Number of Investigations** Investigations annually;
  - **Number of Audits** Audits annually;
  - **Number of Litigation Briefs** fully developed agency Litigation Files (noting that the legal work required to prepare and progress the Court litigation will be undertaken by the Fair Work Ombudsman) annually. These do not include inspector assisted small claims matters;
  - a Direct Referral Service for the calls it receives in relation to National Workplace Relations System matters; and
  - **Total Number of TEVs** Transitional Educational Visits. **Number of TEVs year 1** visits are required to be performed in the first year of the contract, with **Number of TEVs years 2+** visits in each further year of the contract.



Particular requirements in relation to each of the Services are as follows:-

## **Part 1 - Investigations**

*When will State Agency be required to undertake Investigations?*

3. State Agency is required to investigate Number of Investigations complaints per annum allocated by the Fair Work Ombudsman. The Investigations may be in relation to incorporated or unincorporated bodies regulated under Commonwealth or State2 laws. Any complaint allocated by the Fair Work Ombudsman will include activity that, at least in part, occurred after 31 December 2009.
4. Complaints to be investigated will be allocated by the Fair Work Ombudsman.

*To what standard must Investigations be undertaken?*

5. State Agency must undertake Investigations to the standard and to the complexity detailed in the Fair Work Ombudsman Field Operations Manual.
6. State Agency must finalise 80% of Investigations within 90 days from registration of the complaint with the Fair Work Ombudsman, and must finalise 90% of Investigations within 180 days from registration of the complaint with the Fair Work Ombudsman.

*What reports must State Agency provide in relation to Investigations?*

7. State Agency must provide a status report on all current and closed Investigations for the reporting period at each Partnership Management Committee meeting. The report must detail last action (and date), current status and issues, next action (and relevant time frame) and such other information required by the Fair Work Ombudsman.
8. All Investigations undertaken by State Agency must be recorded in the Fair Work Ombudsman 's Claims II tracking system or similar system as nominated by the Fair Work Ombudsman.
9. On completion of the Investigation, State Agency must provide a final report on each completed Investigation in accordance with the Fair Work Ombudsman Field Operations Manual. The Investigation shall be regarded as complete when the report is accepted by the Fair Work Ombudsman.
10. State Agency must fully participate in the review process in accord with Chapter 12 of the Fair Work Ombudsman Field Operations Manual.
11. State Agency must provide a status report on all Investigations subject to the Fair Work Ombudsman review process at each Partnership Management Committee meeting. At a minimum, in relation to each request for review that has been received, finalised or underway since the previous meeting of the Partnership Management Committee meeting, this report must detail:
  - a) the date the request for the review was received;
  - b) the basis upon which the applicant is seeking the review;
  - c) the actions taken to date during the review process;

- d) where the review is not yet complete, the proposed date for finalisation of the review; and
- e) where the review is complete, the date of finalisation and the outcome of the review.

## **Part 2 - Audits**

*When will State Agency be required to undertake Audits?*

- 12. State Agency is required to undertake Audits in relation to Number of Audits matters allocated by the Fair Work Ombudsman. An Audit may be in relation to incorporated or unincorporated bodies regulated under Commonwealth or State2 laws.
- 13. Audits will be allocated by the Fair Work Ombudsman.

*To what standard must Audits be undertaken?*

- 14. State Agency must undertake Audits to the standard and to the complexity detailed in the Fair Work Ombudsman Field Operations Manual and the Fair Work Ombudsman Standard.
- 15. State Agency must finalise 80% of Audits within 90 days from commencement of the relevant targeted campaign or registration of the confidential complaint with the Fair Work Ombudsman; and must finalise 90% of Audits within 180 days from commencement of the relevant targeted campaign or registration of the confidential complaint with the Fair Work Ombudsman.

*What reports must State Agency provide in relation to Audits?*

- 16. State Agency must provide a status report on all current and closed Audits for the reporting period at each Partnership Management Committee meeting. The report must detail the last action (and date), current status and issues, next action (and relevant time frame) and such other information required by the Fair Work Ombudsman.
- 17. All Audits undertaken by State Agency must be recorded in the Fair Work Ombudsman 's Claims II tracking system or similar system as nominated by Fair Work Ombudsman.
- 18. State Agency must provide a final report on each completed Audit in accordance with the Fair Work Ombudsman Field Operations Manual. The Audit shall be regarded as complete when the report is accepted by the Fair Work Ombudsman.

## **Part 3 - Litigation Files**

*When must State Agency prepare Litigation Files?*

- 19. State Agency is required to prepare Litigation Files in relation to Number of Litigation Briefs matters that were initially allocated by Fair Work Ombudsman as Investigations. The Litigation Files may be in relation to incorporated or unincorporated bodies regulated under Commonwealth or State2 laws.

*To what standard must Litigation Files be completed?*

20. State Agency must prepare Litigation Files within the time frame, to the standard and to the complexity required to enable the matter to be competently litigated.

*What reports must State Agency provide in relation to preparation of Litigation Files?*

21. At each Partnership Management Committee meeting, State Agency must provide a status report on all Litigation Files that it is, or was, preparing for referral to the Fair Work Ombudsman during the reporting period. The report must detail the last action (and date), current status and issues, next action (and relevant time frame) and such other information required by the Fair Work Ombudsman.
22. Preparation of the Litigation File shall be completed when the file is accepted by the Fair Work Ombudsman.

*Other Matters*

23. All legal work to prepare and progress court litigation will be undertaken by the Fair Work Ombudsman.
24. Litigation Files will not include Inspector assisted small claim matters.

#### **Part 4 - Direct Referral Service**

25. State Agency will instigate and maintain a Direct Referral Service to on forward telephone and web based enquiries it receives in relation to matters related to the National Workplace Relations System to the Fair Work Ombudsman.
26. State Agency will comply with the Fair Work Ombudsman's reasonable requirements (including technical requirements) in relation to the establishment and maintenance of the Direct Referral Service.

#### **Part 5 - Transitional Educational Visits.**

*When must a State Agency undertake Transitional Educational Visits?*

27. State Agency is required to undertake the following number of Transitional Educational Visits in each of the first 3 years of this agreement:-
  - a) in the first year of this Agreement, Number of TEVs year 1 Transitional Educational Visits;
  - b) in year 2 of this Agreement, Number of TEVs years 2+ Transitional Educational Visits;
  - c) in year 3 of this Agreement, Number of TEVs years 2+ Transitional Educational Visits.
28. State Agency must submit a monthly plan for proposed Transitional Educational Visits to the Partnership Management Committee. The Partnership Management Committee will agree the proposed plan or amendments to the proposed plan.

29. State Agency will undertake Transitional Educational Visits in accordance with the plan approved by the Partnership Management Committee or as determined by the Project Officer.

*To what standard must Transitional Educational Visits be undertaken?*

30. State Agency must undertake Transitional Educational Visits within the time frame; to the standard and to the complexity required by the Fair Work Ombudsman.

*What reports must State Agency provide in relation to Transitional Educational Visits?*

31. State Agency must provide a status report against the approved plan on the progress of proposed visits at each Partnership Management Committee meeting.
32. On completion of the Transitional Educational Visit, State Agency must provide a final report on each visit. The report must detail the date of the visit, the purpose of the visit; the officers undertaking the visit; the entity or persons visited, the outcome of the visit and such other information required by the Fair Work Ombudsman. The Transitional Educational Visit shall be regarded as complete when the report is received and accepted by the Fair Work Ombudsman.

*Other Matters*

33. Transitional Educational Visits are to be unobtrusive and focus on providing meaningful support to employers so that they understand their new workplace rights and obligations.
34. Transitional Educational Visits will involve undertaking a very significant number of visits to employers across regional and urban centres in each referring State. During the Transitional Educational Visits, State Agency Personnel will assess the specific needs of the employer they are visiting and provide a tailored suite of educational products. These products will include, inter alia, specific Fact Sheets, Best Practice Guides, Fair Work Education and Information Program materials and a compact disc containing Fact Sheets, Best Practice Guides, the Fair Work Information Statement, the *Fair Work Act 2009* and related Regulations.

*Signatures*

SIGNED for and on behalf of the  
Commonwealth of Australia as  
represented by **^Full name of Fair**  
Work Ombudsman **^** by:

)  
)  
)

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
**^Name of signatory^**

In the presence of:

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
**^Name of witness^**

SIGNED for and on behalf of the  
State of Stateby:

)  
)  
)

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
**^Name of signatory^**

In the presence of:

\_\_\_\_\_  
*Signature of witness*

\_\_\_\_\_  
**^Name of witness^**