



Victorian Aboriginal Legal Service Co-operative Ltd.

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CDEP Feedback
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Dear Sir or Madam,

Re: CDEP Discussion Paper 2005 - Building on Success

Thank you for the opportunity to comment on the CDEP Discussion Paper 2005 - Building on Success (Discussion Paper). The Victorian Aboriginal Legal Service Co-operative Limited (VALS) agrees with many of Senator Kim Carr's comments on the Discussion Paper.

In general terms VALS has the following concerns:

- VALS is concerned that the Discussion Paper is based on flawed and simplistic premises such as the following:
 - Community Development Employment Projects (CDEP) has become a destination rather than a stepping stone, which contains negative connotations. The result of this premise is that additional expectations are being placed on CDEP organisations without further funding being provided. It will also mean that CDEP organisations will be under pressure to adopt a revolving door mentality, and as a result the value of the service provided by CDEP organisations will diminish (ie: lack of time to address social issues).
 - It is necessary to reform the CDEP system even though the Government acknowledges the system has been a success. VALS questions the decision to reform a system that has been the mainstay of employment for Indigenous Australians over its 27-year history.¹ VALS argues that it would make more sense to change mainstream employment practices to enable Indigenous Australians to enter mainstream employment. Indigenous Australians should be involved in strategies to improve the accessibility of mainstream employment to Indigenous Australians.
 - It is appropriate to turn the highly successful CDEP program upside down despite any indication that the Government proposals are backed by evidence, or that an independent evaluation has been conducted.²

¹ Senator Kim Carr - Media Statement 'Govt's CDEP consultations a farce before they even begin' 17th February 2005.

² Senator Kim Carr - Media Statement '37,000 Indigenous jobs on the line as Govt launches shonky review' 22nd February 2005

- It is appropriate to narrow the focus of CDEP and place greater emphasis on the need for non-CDEP jobs and businesses. VALS argues that the plan to ensure that more Indigenous Australians are on non-CDEP employment is a good plan in the long term. However, VALS is concerned that the plan may be unrealistic (ie: lack of job opportunities in certain areas). Also, the emphasis on non-CDEP jobs has the potential to undermine or devalue the CDEP program as we currently know it. The current CDEP program has a broader focus than non-CDEP jobs and businesses (ie: community activities, community development and addressing social issues). VALS argues that the focus of CDEP could even be broader in the future (ie: training, education). The DEWR needs to be aware that the success of CDEP cannot be measured in terms of ‘on or off’ CDEP status as this is too simplistic (ie: CDEP funded employment or non-CDEP jobs).
- The reforms are appropriate, despite the fact that the consultation period was flawed because the period of one month was too brief. In contrast, the minimum period for community consultation in Canberra is six weeks.³ VALS is suspicious that consultation processes are not valued by the Government and simply offered in a tokenistic manner so as to legitimize decisions made prior to the consultation process. VALS argues that effective consultation periods are essential not only for the Indigenous Australian community to provide feedback and have input, but also for reform processes to gain the support and involvement of the Indigenous Australian community. Given that the reform of CDEP will profoundly affect a great majority of Indigenous Australians it is important to get it right in the first place.

Please find below VALS response to specific questions about CDEP.

How can CDEP organisations help local communities to meet their needs and goals?

VALS suggests that the Department of Employment and Workplace Relations (DEWR) should look at Reports (ie: budget report) that have been produced for DEWR by CDEP organisations in order to find a response to this question. CDEP organisations can help provide essential services to communities that would not otherwise have them and fill gaps.

VALS is concerned that the Discussion Paper seems reliant on Shared Responsibility Agreements (SRA) to determine the needs and goals of the Indigenous Australian community. VALS agrees with the following comments of Senator Carr: “shared responsibility has to be genuinely shared which means the Government has

³ Senator Kim Carr - Media Statement ‘Govt’s CDEP consultations a farce before they even begin’ 17th February 2005.

responsibilities” (ie: provision of infrastructure), not just the citizens.⁴ VALS agrees with Senator Carr’s criticism of SRA that it means “basic entitlements that every citizen in this country has come to expect as their right, are now being put on the table and have to be bargained for.”⁵

Open communication between CDEP organisations and the Indigenous Australian community is required if the former is to help the latter meet their needs and goals. The perspective of community should also be taken into account by the proposed Solution Broker role, especially if this position is filled by non-Indigenous Australians, and employees of DEWR. The mainstreaming of services for Indigenous Australians should be accompanied by the skilling up of mainstream services so they provide a culturally sensitive service.

Do you think the three proposed streams of employment, community activities, and business development are appropriate? What issues and benefits for your community or organisation do you see with this approach? What might help CDEP organisations move to this approach?

The three proposed streams of employment are appropriate, subject to some emphasis being placed on training and education across the three streams. VALS agrees with Senator Carr and is concerned that “the Government has paid scant attention to the independent discussion paper on CDEP, by the Centre for Aboriginal Economic Research at the ANU. It recommended a continuing focus on community development, training and better links with education”. Training and education links are ignored in the Discussion Paper.⁶

The three proposed streams are appropriate because they are flexible depending on the circumstances of a community and provide choice (ie: a CDEP organization may concentrate on two of the three streams). For instance, the East Gippsland ACDEP Co-operative Ltd is intent at this stage on the promotion of its own businesses as a way to secure jobs for participants in the future.

What issues and benefits do you see with CDEP funding being provided as management and activity fees? Do you think that different rates should apply to remote and non-remote areas?

VALS wishes to make the following comment of whether different rates should apply to remote and non-remote areas. If different rates are to apply to remote and non-remote areas it is essential that there should be an appropriate formula for determining what is a remote and non-remote area and the provision of clear definitions. VALS notes that the current definition of remote and non-remote areas for CDEP purposes is flawed because it does not include Victoria in the parameters of the former. VALS argues that there are

⁴ Senator Kim Carr interview on ‘The World Today’, ABC, 21 February 2005

⁵ Ibid

⁶ Senator Kim Carr - Media Statement ‘37,000 Indigenous jobs on the line as Govt launches shonky review’ 22nd February 2005

areas in Victoria that can be classified as remote as people are isolated from services just as much as in other States and Territories. In fact an urban Indigenous Australians can be considered to be living in an isolated area if they do not have access to transport and therefore cannot access services. VALS is aware that the Commonwealth Attorney-General's Department classifies part of Victoria as remote and consideration should be given to the formula used by the Attorney-General's Department. In determining what is considered a remote area Victoria should not solely be compared to other States/Territories, but considered on its own merit.

VALS is of the opinion that the difference in rates provided for remote and non-remote areas should only be marginal, as the difference need only cover for issues of fuel and other costs etc.

VALS wishes to repeat the question raised in the Ramahyuck District Aboriginal Corporation response to the Discussion Paper: "Is training included in the fees?"⁷

How can links between CDEP and other employment programs be improved to achieve better results for CDEP participants?

The answer to the question of how links between CDEP and other employment programs can be improved is 'networking'. It is essential that other employment programs, or mainstream programs, become more culturally sensitive so that they can achieve better results for CDEP participants. The strategy that needs to be adopted to achieve this is for mainstream programs to give CDEP opportunities to enlighten them about cultural sensitivities. Also, CDEP organisations need to be open to learning from mainstream employment programs, which will enable the former to achieve better results for CDEP participants. For instance, CDEP organisations and employment programs could engage in joint-training packages, or enable employees of each organization to work at the other organization for a period of time necessary to be skilled up. Each organization should be open to sharing their strengths which will serve the interests of Indigenous Australians.

What do you think of the proposal to introduce results-based performance measures for CDEP? What do you think those indicators should be?

VALS is concerned by the proposal to introduce results-based performance measures for CDEP. The emphasis on 'real job' outcomes is apparent in the provision of additional funding to a CDEP organisation if they place participants in non-CDEP jobs and the push to transform CDEP organisations into employment provider services. The emphasis on real job outcomes is arguably a result of CDEP being transferred from the Aboriginal and Torres Strait Islander Commission to DEWR. The DEWR needs to be aware that the success of CDEP cannot be measured in terms of non-CDEP funded employment, as this is too simplistic. The CDEP is broader than employment and involves community activities and business development.

⁷ Ramahyuck District Aboriginal Corporation response to CDEP Discussion Paper 2005

VALS is concerned by the emphasis on real job outcomes because it may result in the overlooking or undervaluing of the following:

- Alternatives to non-CDEP employment, such as cultural heritage activities or programs. For instance, in certain regions there is a shortage of non-CDEP jobs so CDEP resorts to assisting in alternative ways (ie: East Gippsland ACDEP Co-operative Ltd is a registered training body). Training opportunities, and an ability to tap into appropriate training bodies, should be considered an indicator. Also the value of non-employment related CDEP activities to the older generation of Indigenous Australians should be considered (ie community activities that give older people opportunities etc).
- CDEP jobs being given the status of pretend jobs in the Discussion Paper which results in the undervaluing of the essential services to the Indigenous Australian community which such jobs provide. The value of the job to the Indigenous Australian community should be considered an indicator, regardless of whether it is based on CDEP funds or not.
- Individuals who are working part time in a CDEP job and part time in a non-CDEP job. VALS is concerned that the fact that because the individual in the above scenario is not completely off CDEP that their situation will not be considered a positive outcome. This argument also applies to businesses. The above scenario should be considered when developing indicators of success. VALS argues that the above scenario should be recognized as a practical and valuable outcome. It is a practical outcome even though the participant is not entirely off CDEP and so indicators should not be limited to on/off CDEP status. For instance, over time the mainstream employer will get value from the employee and eventually decide to employ them full time. Also, the employee is benefiting from the training provided by the employer in the meantime.

In the context of business VALS is concerned that small business that have been started by CDEP organisations, such as East Gippsland ACDEP Co-operative Ltd, and which are running effectively, cannot continue or survive without CDEP subsidies. Currently, the wages of those involved in the business are based on CDEP (2 days employment) and topped up from the income generated by the business. Small businesses will find it difficult to stand alone as the business expertise (ie: financial /selling expertise) of those involved is limited. There should be caution in cutting off CDEP funds too soon to small business and there should be guidelines developed around this topic to ensure consistency. If this does not occur the worst case scenario is that businesses will fail. This could have a detrimental impact on the community if the business provides an essential service. The value of the business to the community should be an indicator of success.

What issues do you think might arise if CDEP organisations are encouraged to tender to become employment services providers? What type of support would CDEP organizations need to make such a change?

If CDEP organisations are encouraged to tender to become employment services providers there is the issue of CDEP organisations lacking the infrastructure necessarily to effectively compete with current employment service providers in the tender process. In order to tender on equal terms the Government should provide capital input to CDEP organisations planning to become employment services providers (ie: infrastructure). Resources should be provided to cover the cost involved in responding to the request for tender. CDEP organisations should be adequately resourced to deal with mainstream employment service providers as well as Indigenous employment service providers (ie: costs involved in networking).

VALS has recently undergone a tender process and so is able to comment on this issue from an informed perspective. It is the opinion of VALS that:

- Tendering is not an effective way of improving service delivery and Indigenous Australian organisations are disadvantaged by tender processes in comparison to non-Indigenous Australian organisations.
- The tendering of services does nothing to address funding shortfalls but is merely window dressing. VALS notes that central to the issue of funding is the increase in population of Indigenous Australians as recognized in the Discussion Paper.
- The DEWR should perhaps do a cost benefit analysis prior to deciding to encourage CDEPs to tender. This is something the Commonwealth Government failed to do so in the context of legal services.
- Relationships between CDEP organisations will be undermined by requiring them to compete in a tender process which will in turn undermine the effectiveness of the successful tenderer.
- It should be a condition of the tender process that organisations committed to employing Indigenous Australians, including at management level, can only tender. VALS expressed concern about the tendering out of legal services for Indigenous Australians in the following paper: VALS and Arnold Bloch Leibler submission in response to the 'Exposure Draft of a Request for Tender for the Purchase of Legal Services for Indigenous Australians' (Exposure Draft) (available at <http://www.vals.org.au/news/submissions/VALS.ABL%20Sub%20to%20ATSIS%20final.pdf>). VALS argued that the definition of cultural sensitivity in the Exposure Draft was flawed because it did not require the employment of Indigenous Australians.

Are there any other comments you would like to make about the future of CDEP?

VALS' further comments about the future of CDEP are as follows:

- It appears that the Discussion Paper is leading CDEP to a future which involves a cost shifting exercise by State and Federal Governments to local Government and local communities. Cost shifting is a real concern given that there is no longer a representative or independent body to keep Governments accountable for cost shifting attempts (ie: Aboriginal and Torres Strait Islander Commission – ATSIC).
- VALS is concerned that the CDEP reforms are connected to the mainstreaming services (ie: transfer of CDEP from ATSIC to the DEWR). This transfer has led to a reduction in the number of CDEPs operating by 13 in the last seven months.⁸
- VALS is concerned about the future of CDEP in light of the inadequacy of the process of reforming CDEP, namely the consultation period. In preparing this submission VALS contacted multiple CDEP organisations in Victoria. VALS is concerned that the majority of them had not responded to the Discussion Paper and at least one had not heard of the Discussion Paper. VALS takes this opportunity to urge the DEWR to be cautious in reforming CDEP and be flexible to the needs of Indigenous Australians in terms of involvement in the reform process. VALS wishes to repeat the comment in the Ramahyuck District Aboriginal Corporation response to the Discussion Paper: the future of CDEP rests in the hands of CDEP organisations and the Indigenous Australian community and the sooner this happens the better.⁹
- VALS is concerned that CDEP will be increasingly linked to mutual obligations and shared responsibility agreements (SRA) in the future.¹⁰

Thank you for the opportunity to comment on the Discussion Paper and please contact Greta Jubb (Research Officer) if you have any queries.

Yours Sincerely

Victorian Aboriginal Legal Service Co-operative Limited

Frank E. Guivarra
Chief Executive Officer

⁸ Senator Kim Carr interview on ‘The World Today’, ABC, 21 February 2005

⁹ Ramahyuck District Aboriginal Corporation response to CDEP Discussion Paper 2005

¹⁰ Ibid

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