Fair Work Education and Information Program

Department of Education, Employment and Workplace Relations

Canberra ACT
15 September 2011

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Education, Employment and Workplace Relations with the authority contained in the *Auditor-General Act 1997*. Pursuant to *Senate Standing Order 166* relating to the presentation of documents when the senate is not sitting, I present the report of this audit and the accompanying brochure to the Parliament. The report is titled *Fair Work Education and Information Program.*

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—http://www.anao.gov.au.

Yours sincerely

Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Abbreviations and Glossary

ANAO	Australian National Audit Office
attendees	The employees and employers who attended seminars, workshops or one-on-one consultations delivered by FWEIP education and information providers.
content modules	Education and information modules developed by DEEWR, on the legislative elements of the *Fair Work Act 2009*, and used by the selected providers as the basis for FWEIP education and information activities.
DEEWR	Department of Education, Employment and Workplace Relations
the Act	*The Fair Work Act 2009* (amended 2011)
Finance	Department of Finance and Deregulation
Finance Minister's Instructions, 2007	Issued in December 2007—provided detailed information about Commonwealth Budget and other related processes, including key instructions in respect to grants.
FWEIP	Fair Work Education and Information Program
FWO	(Office of) the Fair Work Ombudsman
Guidelines for Applicants	Fair Work Education and Information Program Guidelines for Applicants, April 2009
Minister (the then)	Former Minister for Education, Employment and Workplace Relations
modern awards	Industry or occupation-based minimum employment standards which apply in addition to the National Employment Standards under the *Fair Work Act 2009.*

National Employment Standards (NES)	Ten minimum standards applying to employment of employees under the *Fair Work Act 2009.*
participants	The employees and employers who participated in online activities delivered by FWEIP education and information providers. Also used in the report when collectively referring to attendees and participants.
performance information	Evidence about performance that is collected and used systematically. Performance information may be quantitative (numerical) or qualitative (descriptive), and should be verifiable.
service provider/provider	Grant recipients who were responsible for the delivery of education and information activities under FWEIP.

Summary

Summary

Introduction

1.   In the lead-up to the 2007 Federal Election campaign, the Australian Labor Party (Labor) outlined its *Forward with Fairness* workplace relations policy. The policy sought to balance two core principles: providing flexibility for business; and ensuring fair laws exist which protect workers. Labor's policy included provision of resources to small business organisations to undertake an education and information campaign for their members about the new workplace relations system.[1]

2.   Following its election in late 2007, the Labor Government set about implementing the *Forward with Fairness* policy. The current national workplace relations system subsequently began to take effect for employees and employers with the commencement of the *Fair Work Act 2009* (the Act) on 1 July 2009.[2] The key elements of the new system were:

- a safety net for employees, including National Employment Standards (NES), and modern awards for industries and occupations[3];

- a collective bargaining framework for enterprise agreements;

- unfair dismissal protections for employees; and

- a changed institutional framework for the administration of the workplace relations system.

The Fair Work Education and Information Program

3.   To support the transition to the Act, in March 2009 the then Prime Minister approved the $12.9 million Fair Work Education and Information

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[1]   Australian Labor Party, *Forward with Fairness—Policy Implementation Plan*, August 2007, p. 20.

[2]   The national workplace relations system covers all employment in constitutional corporations and in: Victoria, the Australian Capital Territory and the Northern Territory—all other employment; New South Wales, Queensland and South Australia—all other private sector employment (from 1 January 2010); and Tasmania—all other private sector and local government employment (from 1 January 2010). See <http://www.fwa.gov.au/index.cfm?pagename=transchanges#the> [accessed 9 May 2011].

[3]   Most employees covered by the national workplace relations system are entitled to the 10 National Employment Standards, which are enforceable minimum employment terms and conditions. Modern awards establish additional minimum employment terms and conditions, which vary by state, industry and employer. The National Employment Standards and modern awards commenced on 1 January 2010.

Program (FWEIP). FWEIP was a relatively small, one-off national program which provided grants to employer, employee, small business and community organisations to deliver education and information on the Act. FWEIP education and information activities took place between July 2009 and April 2010.

4. FWEIP's objectives were to allocate grants to organisations to enable them to provide:

- education and information services to assist employees, employers and small business in understanding the new workplace relations laws and their practical applications, with specific focus on:

    – collective bargaining; and

    – the new unfair dismissal laws, including the Small Business Fair Dismissal Code.

- … employees and employers with timely advice and assistance on the new workplace relations system, in particular to ensure groups such as Indigenous Australians, those from non-English speaking backgrounds and people with disabilities receive targeted advice and assistance.[4]

Program administration

5. As part of the changed institutional framework for the administration of the workplace relations system, the Act established the Office of the Fair Work Ombudsman (FWO). Among its functions, FWO offers people a single point of contact for accurate and timely information about Australia's current workplace relations system, and educates people working in Australia about fair work practices, rights and obligations. FWO had not commenced operations at the time FWEIP was approved by the then Prime Minister and the Act received Royal Assent (April 2009). As a consequence, it was determined that FWEIP would be administered by the Department of Education, Employment and Workplace Relations (DEEWR) in the first instance, before being transferred to FWO to form part of its broad service delivery program. As events unfolded, DEEWR administered the program through to its conclusion.

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[4]   DEEWR, *Fair Work Education and Information Program Guidelines for Applicants*, April 2009, p. 2.

6. At the outset of the program, DEEWR developed a project plan that set out the proposed timing of implementation activities for FWEIP. These covered: the grant selection process, including the invitation of organisations to apply for a grant; establishment of funding agreements; and development of education and information content. Program planning sought delivery of the education and information activities in a relatively short timeframe, to coincide with the commencement of the Act.

7. DEEWR administered a targeted or restricted grant selection process for FWEIP. In consultation with the Department of Innovation, Industry, Science and Research (DIISR) and the then Minister's office, DEEWR identified and invited 25 organisations[5] to apply for a grant. These organisations were invited to apply following DEEWR's consideration of their role as peak bodies, experience in delivering similar training and audience reach. Subsequently, 14 other organisations that were not initially invited requested to apply for a grant following a media release on the program. DEEWR considered that seven of these organisations were also peak bodies with relevant experience and audience reach, and they were invited to apply. In total, DEEWR received 34 applications which were assessed against criteria published in the *Fair Work Education and Information Program Guidelines for Applicants* (Guidelines for Applicants).

8. DEEWR approved 19 grants with funding per grant recipient (service provider) ranging from $70 000 to $2.5 million. The amount of each grant was determined on a case-by-case basis with regard to total available funding, delivery of a suitable program of education and information activities, and each applicant's estimated costs.

9. Following the selection of service providers, DEEWR entered into funding agreements with each of them on behalf of the Commonwealth. The funding agreements specified the education and information activities to be delivered by providers, and other funding terms and conditions. The funding agreements included a progress report and milestone payment framework.

10. Using education and information content developed by DEEWR, the providers designed and delivered a range of activities, including seminars and workshops, web-based information and webinars[6], printed materials and

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[5]   The invitation to two of the organisations encouraged them to extend the invitation to any affiliates they deemed appropriate.

[6]   An interactive seminar conducted via the Internet.

targeted consultations. DEEWR required all of these activities to be delivered free of charge; and to members of provider organisations and any non-members who wished to attend.

Audit objective, criteria and scope

11. The audit objective was to assess the effectiveness of DEEWR's administration of FWEIP. The three high level criteria that were used to make this assessment were the appropriateness of DEEWR's:

- program planning and design;

- selection and engagement of providers; and

- program monitoring, reporting and evaluation.[7]

12. The audit also assessed program performance using information collected and reported by providers.

Overall conclusion

13. The *Fair Work Act 2009* (the Act) established Australia's current national workplace relations system. The Act brought about wide-reaching changes in workplace relations, including new minimum employment terms and conditions, a collective bargaining framework for enterprise agreements, unfair dismissal protections for employees, and a changed institutional framework for administration of the workplace relations system. Given the scope and impact of these changes, the Government approved a national program, administered by DEEWR, to deliver initial education and information on the new workplace relations system to employees, employers and small business.

14. The Fair Work Education and Information Program (FWEIP) was developed in 2009, and in the 10 months following the commencement of the Act, 19 FWEIP grant recipients (service providers) delivered some 3550 education and information activities across Australia. Reported activities exceeded the number providers were funded to deliver by 9 per cent. In excess of 56 000 people participated in face-to-face or web-based activities[8], and over

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[7] In assessing DEEWR's performance in relation to the audit criteria, the audit considered the following policy and guidance applicable at the time FWEIP was developed and the grant selection process was conducted: the December 2007 *Finance's Minister's Instructions* and the ANAO's May 2002 Administration of Grants Better Practice Guide.

[8] Of these, 40 per cent were employers, 40 per cent were employees and 20 per cent did not specify.

82 000 people visited education and information websites. Feedback from activity participants was positive in terms of their increased awareness of the new workplace relations system.

15.　Overall, DEEWR's administration of FWEIP was reasonably effective in facilitating delivery of suitable education and information activities on Australia's current national workplace relations system in the period following commencement of the Act. DEEWR's program planning and design generally were appropriate in light of the nature of the program; the department selected and engaged a well-positioned cohort of service providers to deliver broad ranging activities; and, for the most part, program monitoring, reporting and evaluation were adequate given the key characteristics of the program, including its size. Nonetheless, there were shortcomings in the processes used by DEEWR to invite organisations to apply for grants and assess applications received. There was also scope for improvement in the department's assessment of program performance. Improvements in these areas had the potential to further strengthen the reach and impact of the program.

16.　The process used to select grant recipients should be transparent, equitable and likely to select proposals that best represent value for money in the context of the objectives of the grant program. DEEWR sought to balance transparency, available timeframes[9] and competition among applicants, by first inviting selected organisations, and then appraising applications received against published assessment criteria, including cost-efficiency. In practice, there were some elements of the grant selection process which could have been managed better.

17.　DEEWR did not promote the grants program, or publish the organisational attributes used as the basis for selecting the original 25 organisations that were invited to apply for a grant, until the program (including the already completed invitation process) was made public as part of a media release. Following the media release, another 14 organisations that were not initially invited requested to apply for funding. Seven of these organisations were permitted to apply on the basis that DEEWR considered they also had suitable attributes for the delivery of education and information

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9　DEEWR planned to commence delivery of education and information activities under the program prior to 1 July 2009. The Act received Royal Assent in April 2009, leaving little time to complete the grant selection process, establish funding agreements and commence delivery.

on the Act[10], and could comply with the closing date for applications, which was not extended. Earlier and better promotion of FWEIP, including eligibility criteria, would have supported more open, transparent and equitable access to the grants. It would also have helped avoid excluding suitable organisations that may not have applied because they were not initially invited, were unable to submit an application by the closing date, or were unaware of the program.

18.   DEEWR assessed the 34 grant applications it received against assessment criteria published in the Guidelines for Applicants. The criteria were clearly linked to the program's objectives and considered value for money provided by proposals. Some aspects of the appraisal process did not however follow generally accepted procedures. Specifically, applications that did not provide all mandatory information and assurances, such as a risk management plan, were not excluded from further assessment; and some of the successful applications received ratings of 'poor'[11] for one or two of the criteria, including the cost-efficiency criterion.[12] In recommending some, but not all, services proposed by applicants, and the allocation of less than their requested funding, the selection panel advised the DEEWR decision-maker that all recommended proposals would be 'cost-effective'.

19.   The grant selection process resulted in approval of grants of $9.5 million to 15 employer organisations; $2.9 million to two employee organisations; and $446 000 to two organisations targeting both employers and employees, in accordance with the recommendations of the selection panel.[13] The service providers were selected to deliver broad ranging activities across many industries in metropolitan, regional and remote locations. Funding awarded varied according to the organisation's reach and specifically, their

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[10]   The reason given in the selection panel's report to the decision maker for not accepting requests from the other seven organisations was that DEEWR considered they did not have the ability to reach a broad and/or diverse target audience group. However, the ability to reach a broad and/or target audience was one of the five application assessment criteria, and one-third of successful applicants were rated two out of five or 'poor' for this criterion as part of the application assessment process.

[11]   'Poor' was two out of five and defined as: 'Specification requirements poorly addressed in some areas or not at all. Claims largely unsubstantiated. High Risk.' Some successful applications received ratings of 'poor' for either or both of the following criteria: ability to reach a broad and/or diverse target audience; and the cost-efficiency of the proposed activities.

[12]   The full criterion was: 'the cost efficiency of the applicant's proposal, having regard to the amount of funding being sought, the scope of services proposed to be provided and the applicant's compliance with the draft funding agreement'.

[13]   Appendix 1 details a list of providers by type and their allocated grants. Although the organisations are identified by type as employer or employee; activities were open to both employers and employees.

agreed program of education and information activities. Having selected the service providers, DEEWR engaged them through funding agreements which provided a reasonable basis to protect the Commonwealth's interests. The providers were also given appropriate education and information content which they adapted for their delivery mechanisms and audience.

20. DEEWR subsequently monitored the service providers' delivery of education and information through analysis of their progress reports, day-to-day interaction and direct activity monitoring.[14] While established monitoring arrangements were suited to the program, in practice DEEWR undertook less by way of direct activity monitoring than envisaged.[15] This was despite identifying a number of delivery issues for the few activities that were directly monitored.

21. In addition to provider monitoring, DEEWR reviewed, reported on (internally and externally) and evaluated the overall program. In this context, service providers collected and reported attendee feedback which was used by DEEWR to assess the increase in participants' understanding of the new workplace relations system (the first program objective). No performance information was collected to allow DEEWR to assess the extent to which Indigenous Australians, people from non-English speaking backgrounds and people with disabilities received targeted advice and assistance (the second program objective). While recognising DEEWR conducted an evaluation of FWEIP, it is important in implementing programs to have regard to the performance information required, so that performance against a program's stated objectives can be assessed over time, and in the context of an evaluation.[16]

22. The audit does not make any recommendations as the program has now been completed. The audit does however highlight the importance of effectively promoting a grant program, carefully considering the process to be used to assess grant applications, and establishing during the implementation

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[14] Direct activity monitoring included attendance at face-to-face education activities; participation in webinars; and review of websites and online training tools.

[15] The FWEIP Event Monitoring Guidelines recommended at least two public education events be monitored by the administering department for each grant recipient, of which the first should occur early in the program.

[16] Providers' proposals were required to cover how they would target assistance to groups such as Indigenous Australians, and DEEWR could have sought feedback from providers on their delivery of this assistance.

of the program the information required to assess performance against key program objectives.

Key findings by chapter

Administrative arrangements (Chapter 2)

23. DEEWR's allocation of departmental roles and responsibilities for FWEIP, and the delivery model for education and information, were generally appropriate in light of the size, nature and objectives of the program. The program design addressed a number of key issues. Peak employer, employee, small business and community organisations were to be targeted for funding, which supported the program's reach and timely commencement of education and information delivery. Further, education and information content was to be produced by DEEWR to help ensure its efficient development and the consistency of material with the new legislation.

24. DEEWR developed a succinct project plan for FWEIP which outlined the steps required to implement the program, the proposed timing of each step, required consultation and any approvals required for each step. The steps covered by the plan were suitable for the initial implementation of FWEIP. The plan did not however give specific focus to how the performance of the program would be measured. DEEWR also developed a risk plan for FWEIP which covered relevant matters, although the risk plan could have been used more systematically to inform program management.[17]

Selecting and engaging providers (Chapter 3)

Selecting providers

25. DEEWR invited 25 selected organisations to submit applications for grant funding on the basis that they: were peak employer, employee or community organisations; were reputable providers of industrial relations advisory and educational programs; and had an ability to reach a broad and/or diverse target audience group. Following a media release which announced the program and stated 25 organisations had been invited to apply for grants, a further 14 organisations requested to apply for funding. DEEWR agreed to accept additional applications from seven of these organisations because they

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[17] For example, an internal audit of FWEIP found the risk management plan was not used to target monitoring of activities; and risks from the plan were not updated in a systematic way.

were also considered to be peak bodies with experience in delivering similar training and audience reach. As previously mentioned, earlier and better promotion of the grant program would have supported more open, transparent and equitable access to the grants.

26. DEEWR assessed 34 grant applications[18] in accordance with an evaluation plan, particularly against the published assessment criteria: capacity to deliver; services to metropolitan, regional and remote areas; breadth of reach and/or diversity of target audience; presentation of innovative ideas for delivery; and cost-efficiency. The three member selection panel's report to the DEEWR delegate clearly set out the application process, the factors considered in the selection of applicants, and recommended funding.

27. Nineteen of the 34 grant applications that achieved a minimum total score[19] against the assessment criteria, and did not score less than two out of five for any single criterion, were recommended for funding. Almost half of the successful proposals were rated two out of five or 'poor' for cost-efficiency, and one-third were rated 'poor' for their ability to reach a broad and/or diverse audience. The selection panel recommended lower funding than requested to cover only certain proposal deliverables, and considered that as a consequence all recommended proposals would be cost-effective. In the case of reaching a broad and/or diverse target audience, DEEWR advised that it considered holistic coverage as well as providers' individual coverage, and determined that a larger group of providers would be more appropriate. In this context, there would have been merit in DEEWR clarifying through the Guidelines for Applicants, processes that would be used to determine actual funding amounts.

Engaging providers, including product development

28. The FWEIP grant funding agreements provided a reasonable basis to protect the Commonwealth's interest, including by: specifying the type, number and broad location of activities to be delivered by providers; and linking progress payments to milestones and reporting deliverables. Although the application process required submission of details on estimated participant numbers, this information was not included in funding agreements, despite its

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[18] The 34 applications comprised 20 applications from original invitees, eight applications from their affiliates, five applications from organisations that requested to apply, and one unsolicited application.

[19] The minimum score was 14 out of a possible 25.

centrality to program success. Including estimated participant numbers in funding agreements would have sharpened providers' focus on their estimates.[20] This could have strengthened the quality of key information used to assess applications, and created a key benchmark to be used in assessing each provider's performance.

29.　　DEEWR developed five *Fair Work Act 2009* education and information content modules in accordance with the program's objectives and priorities. These modules were adapted by the selected providers for their target audience and delivery mechanisms. DEEWR then cleared providers' adapted materials before they commenced education and information activities. This approach avoided excessive delays in development of education and information; helped to ensure the consistency of education and information with legislation and between providers; and mitigated the risk that presentation of information by providers would be affected by a conflict of interest. Providers were generally positive about the suitability of DEEWR's content modules, and DEEWR's timely clearance of their adapted education and information material.

Monitoring providers and assessing program performance (Chapter 4)

Monitoring providers

30.　　DEEWR established three mechanisms to monitor each provider's compliance with the funding agreement, inform milestone payments and program delivery, and to help assess the contribution of activities towards program objectives. These mechanisms were provider reporting, day-to-day interaction with providers, and direct activity monitoring. The provider reporting framework was appropriate given the nature and timing of the program. DEEWR's review of provider reports, and adjustment of payment timing and amounts in some instances, demonstrated appropriate program oversight, including of compliance with funding agreements.

31.　　DEEWR attended or examined a total of 16 provider activities compared to a departmental recommendation of at least 38. Two activities were directly monitored in September and October 2009 with the remainder monitored in February and March 2010, after a large majority of provider

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[20]　　The majority of applicants provided details of their membership or reach, while others more accurately based their estimates on previous experience in delivering similar education programs.

activities had been delivered; and no such activity monitoring was undertaken for seven of the providers. Issues identified[21] for those FWEIP activities that were directly monitored suggested benefit in DEEWR meeting the recommended level of direct activity monitoring, and better timing this monitoring to increase assurance over program delivery.

Assessing program performance

32. Performance information captured and reported by providers, particularly attendee feedback forms, assisted DEEWR to evaluate performance against the first program objective: understanding of the new workplace relations laws, and their practical application. No information was collected to enable DEEWR to assess performance against the second program objective: timeliness of advice, and target advice and assistance to non-English speaking people, Indigenous Australians and people with a disability. If DEEWR had developed performance indicators at the outset of FWEIP, commensurate with the program's size and nature, this would have provided a better basis for assessing the program's performance.

33. In the nine months following commencement of the Act, some 3550 education and information activities were held across a broad spread of metropolitan, regional and remote locations, with reported activities exceeding the number providers were funded to deliver by 9 per cent. More than 52 000 people attended face-to-face education and information activities, over 4000 people participated in web-based activities, and over 82 000 people visited relevant websites.

34. Seminars and workshops were considered by the providers to be the most relevant delivery mechanism of the program. Attendee feedback for these events was very positive regarding both the quality of the presentations and increased awareness of the topic presented. Online education and e-learning modules were important for individuals not able to participate in face-to-face activities, and the limited feedback obtained for these activities was positive. Take-up rates versus expectations for providers' web-based education varied markedly, highlighting that close attention should be given to estimates of demand when considering potential cost-effectiveness of web-based proposals.

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[21]   For example, low attendance and the non-arrival of a presenter.

Summary of DEEWR response

35. DEEWR provided the following summary response. DEEWR's full response is shown at Appendix 2.

> The Department of Education, Employment and Workplace Relations (DEEWR) welcomes the ANAO's finding that DEEWR's administration of the Fair Work Education and Information Program was reasonably effective in facilitating delivery of suitable education and information activities on Australia's national workplace relations system.

> DEEWR notes the ANAO's comments in relation to effective promotion of grant programs, consideration given to grant application assessment processes, and establishment of key performance indicators during the implementation phase. DEEWR is of the view that these comments will result in the strengthening of future grant implementation and administration within the department.

Audit Findings

1.   Introduction

This chapter introduces the Fair Work Education and Information Program. It also outlines the audit approach.

Background

1.1   In the lead-up to the 2007 Federal Election campaign, the Australian Labor Party (Labor) outlined its *Forward with Fairness* workplace relations policy. The policy sought to balance two core principles: providing flexibility for business; and ensuring fair laws exist which protect workers. Labor's policy included provision of resources to small business organisations to undertake an education and information campaign for their members about the new workplace relations system.[22]

1.2   Following its election in late 2007, the Labor Government set about implementing the *Forward with Fairness* policy. The current national workplace relations system subsequently began to take effect for employees and employers with the commencement of the *Fair Work Act 2009* (the Act) on 1 July 2009.[23] The key elements of the new system were:

- a safety net for employees, including National Employment Standards (NES), and modern awards for industries and occupations[24];

- a collective bargaining framework for enterprise agreements;

- unfair dismissal protections for employees; and

- a changed institutional framework for the administration of the workplace relations system.

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[22]   Australian Labor Party, *Forward with Fairness—Policy Implementation Plan*, August 2007, p. 20.

[23]   The national workplace relations system covers all employment in constitutional corporations and in: Victoria, the Australian Capital Territory and the Northern Territory—all other employment; New South Wales, Queensland and South Australia—all other private sector employment (from 1 January 2010); Tasmania—all other private sector and local government employment (from 1 January 2010). See <http://www.fwa.gov.au/index.cfm?pagename=transchanges#the> [accessed 9 May 2011].

[24]   Most employees covered by the national workplace relations system are entitled to the 10 National Employment Standards, which are enforceable minimum employment terms and conditions. Modern awards establish additional minimum employment terms and conditions, which vary by state, industry and employer. The National Employment Standards and modern awards commenced on 1 January 2010.

The Fair Work Education and Information Program

1.3 To support the transition to the Act, in March 2009 the then Prime Minister approved the $12.9 million Fair Work Education and Information Program (FWEIP). FWEIP was a relatively small, one-off national program which provided grants to employer, employee, small business and community organisations to deliver education and information on the Act. FWEIP education and information activities took place between July 2009 and April 2010.

1.4 As part of the changed institutional framework for the administration of the workplace relations system, the Act established the Office of the Fair Work Ombudsman (FWO). Among its functions, FWO offers people a single point of contact for accurate and timely information about Australia's current workplace relations system; and educates people working in Australia about fair work practices, rights and obligations. FWO had not commenced operations at the time FWEIP was approved by the then Prime Minister and the Act received Royal Assent (April 2009). As a consequence, it was determined that FWEIP would be administered by the Department of Education, Employment and Workplace Relations (DEEWR) in the first instance, before being transferred to FWO to form part of its broad service delivery program. As events unfolded, DEEWR administered the program through to its conclusion.

1.5 The FWEIP timeline is illustrated in Figure 1.1 below. Major program milestones commenced with approval of the new policy proposal by the then Minister for Education, Employment and Workplace Relations (Minister), and concluded upon finalisation of the program evaluation.

Figure 1.1

FWEIP timeline—major milestones

2008	17 Nov	New policy proposal approved by the then Minister
2009	5 Mar	Program approved by the then Prime Minister
	7 Apr	*Fair Work Act 2009* receives Royal Assent
	9 Apr	25 organisations invited to apply
	13 Apr	Media release announcing program
		Additional organisations ask to apply for grant funding
	1 May	Applications close
	25 Jun	Approval of successful applicants
	1 Jul	*Fair Work Act 2009* commenced
	20 Jul	First funding agreement signed
	1 Oct	First provider finalises activities
2010	1 Jan	National Employment Standards and modern awards commence
	14 Apr	Last provider finalises activities
2011	31 Mar	FWEIP evaluation finalised

Source: ANAO analysis of DEEWR documents.

Outcome and program objectives

1.6 FWEIP was one of the elements of the Program[25]: Workplace Assistance, that contributed to DEEWR's Outcome 5:

> Safer, fairer and more productive workplaces for employers and employees by promoting and supporting the adoption of fair and flexible workplace arrangements and safer working arrangements.[26]

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[25] The term 'Program' here refers to a Program under the Australian Government Outcomes and Programs Framework.

[26] DEEWR, *2009–10 Portfolio Budget Statements*, p. 157.

1.7 FWEIP's objectives, which were aligned with Outcome 5, were to allocate grants to organisations to enable them to provide:

- education and information services to assist employees, employers and small business in understanding the new workplace relations laws and their practical applications, with specific focus on:

  – collective bargaining; and

  – the new unfair dismissal laws, including the Small Business Fair Dismissal Code.

- … employees and employers with timely advice and assistance on the new workplace relations system, in particular to ensure groups such as Indigenous Australians, those from non-English speaking backgrounds and people with disabilities receive targeted advice and assistance.[27]

Program administration

1.8 At the outset of the program, DEEWR developed a project plan that set out the proposed timing of implementation activities for FWEIP. These covered: the grant selection process, including the invitation of organisations to apply for a grant; establishment of funding agreements; and development of education and information content. Program planning sought delivery of the education and information activities in a relatively short timeframe, to coincide with the commencement of the Act.

1.9 DEEWR administered a targeted or restricted grant selection process for FWEIP. In consultation with the Department of Innovation, Industry, Science and Research (DIISR) and the then Minister's office, DEEWR identified and invited 25 organisations[28] to apply for a grant. These organisations were invited to apply following DEEWR's consideration of their role as peak bodies, experience in delivering similar training and audience reach. Subsequently, 14 other organisations that were not initially invited requested to apply for a grant following a media release on the program. DEEWR considered that seven of these organisations were also peak bodies with relevant experience and audience reach, and they were invited to apply. In total, DEEWR received 34 applications which were assessed against criteria published in the *Fair Work*

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[27] DEEWR, *Fair Work Education and Information Program Guidelines for Applicants*, April 2009, p. 2.

[28] The invitation to two of the organisations encouraged them to extend the invitation to any affiliates they deemed appropriate.

Education and Information Program Guidelines for Applicants (Guidelines for Applicants).

1.10 DEEWR approved 19 grants with funding per grant recipient (provider) ranging from $70 000 to $2.5 million. The amount of each grant was determined on a case-by-case basis with regard to total available funding, delivery of a suitable program of education and information activities, and each applicant's estimated costs.

1.11 Following the selection of service providers, DEEWR entered into funding agreements with each of them on behalf of the Commonwealth. The funding agreements specified the education and information activities to be delivered by providers, and other funding terms and conditions. The funding agreements included a progress report and milestone payment framework.

1.12 Using education and information content developed by DEEWR, the providers designed and delivered a range of activities, including seminars and workshops, web-based information and webinars, printed materials and targeted consultations. DEEWR required all of these activities to be delivered free of charge to members of provider organisations and any non-members who wished to attend.

Audit approach

Audit objective, criteria and scope

1.13 The audit objective was to assess the effectiveness of DEEWR's administration of FWEIP. The three high level criteria that were used to make this assessment were the appropriateness of DEEWR's:

- program design and planning;
- selection and engagement of providers; and
- program monitoring, reporting and evaluation.

1.14 The audit also assessed program performance using information collected and reported by providers.

Audit methodology

1.15 The audit included document and file reviews, and interviews with departmental staff. The ANAO reviewed all of the grant applications (34) and funding agreements for successful applicants (19). Interviews were conducted with all of the 19 FWEIP providers.

1.16 DEEWR planned and implemented FWEIP prior to the introduction of the *Commonwealth Grant Guidelines* on 1 July 2009. The applicable policy and guidance for the ANAO's review of FWEIP were the December 2007 *Finance Minister's Instructions* about Budget and other related matters, including grants; and ANAO's May 2002 *Administration of Grants Better Practice Guide*.

1.17 The audit was conducted in accordance with the ANAO Auditing Standards at a cost of approximately $320 000.

Report structure

Chapter 2 Administrative Arrangements	Examines the design of DEEWR's administrative arrangements for FWEIP with regard to the program's objectives.
Chapter 3 Selecting and Engaging Providers	Examines the design and conduct of the FWEIP grant selection process. It also examines DEEWR's engagement of service providers, including through funding agreements.
Chapter 4 Monitoring Providers and Assessing Program Performance	Examines DEEWR's monitoring and performance assessment for FWEIP. The chapter also examines the make-up and impact of FWEIP activities.

2.   Administrative Arrangements

This chapter examines the design of DEEWR's administrative arrangements for FWEIP with regard to the program's objectives.

Introduction

2.1   Effective planning is the cornerstone of an economic, efficient and effective grant program. The fundamental aim of the planning process is to ensure that the program will achieve its operational objectives.[29] Major problems encountered at a later stage in program administration may be averted, or significantly ameliorated, if planning processes are systematic and thorough at the outset.[30]

2.2   The ANAO examined the design of DEEWR's administrative arrangements for FWEIP with regard to the program's objectives. Specifically, the ANAO reviewed:

- the approved program;

- administrative responsibilities;

- the delivery model for education and information activities; and

- program planning, including risk management.

The approved program

2.3   DEEWR developed an initial new policy proposal for education and information on the Act which was approved by the then Minister for Education, Employment and Workplace Relations (Minister) on 17 November 2008. The new policy proposal consolidated and delivered on commitments made in the *Forward with Fairness—Policy Implementation Plan*.[31] The proposal was to provide:

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[29]   ANAO Better Practice Guide—Administration of Grants, May 2002, Canberra, p. 5.

[30]   Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, July 2008, p. 6.

[31]   Australian Labor Party, *Forward with Fairness—Policy Implementation Plan*, August 2007, pp. 14 and 20.

- assistance to employer organisations to help their members with collective enterprise bargaining under the new workplace relations system; and

- funding to small business organisations to inform small business of the new workplace relations system and unfair dismissal laws with a specific focus on the Small Business Fair Dismissal Code.

To ensure maximum reach, the program would allow for participation by employee organisations.

2.4 Subsequently, on 5 March 2009, the then Prime Minister approved the $12.9 million FWEIP consistent with the new policy proposal, and over three months prior to the commencement of the Act.

Administrative responsibilities

2.5 As previously mentioned, FWEIP was to be administered initially by DEEWR, then transferred to FWO to form part of its broad service delivery program. As events unfolded, once FWO was established and able to commence its service delivery program, FWEIP was well underway and DEEWR administered the short program through to its conclusion. DEEWR was assisted by other portfolio agencies during program implementation: the grant selection panel included an Executive Director from the Workplace Ombudsman; and staff from FWO assisted with monitoring of providers' activities.

2.6 DEEWR established the Workplace Relations Reform Steering Committee (WRRSC) to oversee programs related to the introduction and implementation of the new workplace legislation. The WRRSC's oversight of the programs, including FWEIP, incorporated regular review of strategic risks and progress against project plans. DEEWR's Group Manager—Workplace Relations Implementation was responsible for executive management of FWEIP. The Group Manager's FWEIP responsibilities included approving grant proposals and the associated funding. DEEWR's senior management oversight of FWEIP was appropriate given the size and nature of the program.

2.7 FWEIP was managed by a project team within DEEWR's then Workplace Relations Implementation Group. In this context, a DEEWR internal audit of the implementation and administration of FWEIP found that:

the positive overall management of the program occurred despite program management facing a number of operational and staffing challenges throughout the development and implementation of the program, including:

difficulty attracting and retaining staff with experience in the development and implementation of grants programs…

2.8   DEEWR advised the ANAO that the initial resourcing of the project team was based on the size and risk of the program, and that as the workload increased, more experienced and skilled resources were allocated to the program.

Delivery model for education and information activities

2.9   The design of a program is integral to the achievement of its objectives. Central elements of the FWEIP delivery model were the nature of funding arrangements, the targeting of funding, the timing and focus of education and information, and responsibility for development of education and information content. These design elements are discussed in Table 2.1.

Table 2.1

Delivery model for education and information activities

Aspect	ANAO commentary
Nature of funding	DEEWR sought advice from the Department of Finance and Deregulation (Finance) on whether the delivery of education and information on the new legislation constituted a marketing campaign. Finance agreed with DEEWR's assessment that it was not a marketing campaign and it was appropriate to deliver the program through a funding arrangement (grant).[32]
Targeting of funding	FWEIP grant funding was targeted at organisations that had strong connections with the community, including peak employer, employee, small business and community associations; and the capacity to deliver workplace relations education and information services to a broad and diverse target audience. Targeting funding in this way leveraged these organisations' systems and membership, which supported the program's reach and timely commencement of education and information delivery.[33]
Timing and focus of education and information	DEEWR originally planned that FWEIP education and information activities would commence in May or June 2009, with emphasis on key elements of the Act commencing on 1 July 2009, namely collective bargaining and unfair dismissal laws. This would have ensured delivery of a good number of relevant activities prior to the Act's commencement. Subsequently, education and information was to be broadened to incorporate compliance with the new laws, the changed institutional framework, and legislative changes that came into effect on 1 January 2010.[34]
Development of content	A key design aspect of FWEIP was DEEWR's development of the education and information content for the program to reduce costs for the selected providers and the department; and help ensure content was current and in line with the legislation. DEEWR advised that when organisations developed their own content for previous workplace relations programs, this created significant work for those organisations, and for the department when clearing the content. In the case of FWEIP, providers would simply adapt DEEWR's education and information content for their delivery mechanisms and audience.

Source: ANAO analysis of DEEWR documents.

Program planning, including risk management

2.10   Planning sets out the necessary steps and processes to be undertaken and identifies what resources are needed and how they will be used. It also determines the relevant milestones and targets, and establishes mechanisms to enable the grant administrator to assess and report the extent to which individual projects and the program overall are meeting their objectives.[35]

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[32]   A funding arrangement was suitable because the activity was to be performed at cost, the successful applicants were community based organisations designed to benefit the public, and the money was not to be provided under a general appropriation for the then Minister to spend at their discretion.

[33]   The process by which organisations were targeted for funding is discussed in more detail in Chapter 3.

[34]   The first education and information activity was not delivered until July 2009, preventing delivery of the first tranche of education and information prior to the commencement of the Act.

[35]   ANAO Better Practice Guide—Administration of Grants, May 2002, Canberra, p. 6.

2.11 DEEWR developed a succinct project plan for FWEIP which outlined the steps required to implement the program, the proposed timing of each step, required consultation and any approvals required for each step. The plan's coverage included the grant selection process; establishment of funding agreements; and development of education and information content. The steps covered by the plan were suitable for the initial implementation of FWEIP. The plan did not however give specific focus to how the performance of the program would be measured, such as through early consideration of performance indicators to measure achievement of the program's objectives.

2.12 A critical stage of any project planning is the development of an effective risk management plan. The process to develop this plan needs to be rigorous, structured and systematic. It is important that the emphasis is on real actions and outcomes so that risk management does not become, essentially, a procedures-based exercise.[36] Identification and treatment of risk should be undertaken at the earliest opportunity, that is, during policy design and should be an element of the control framework for effective program implementation.[37]

2.13 In February 2009, the FWEIP program team developed the FWEIP risk plan. The risk plan was approved on 28 May 2009 following closure of the application process; and updated on 30 March 2010 shortly prior to finalisation of the last provider's activities.

2.14 The FWEIP risk plan recorded program risks, their source, controls, and the residual risk rating. A risk action plan was developed for the eight risks that were initially rated as unacceptable.[38] Although the risk plan covered a range of relevant matters, program risk planning and program management could have been better integrated, with each more closely informing the other. In this regard, a DEEWR internal audit of FWEIP found the risk management plan was not used to target monitoring activities; and risks from the plan were not updated in a systematic way. Further, the program risk plan was not updated to reflect key risks identified by the successful applicants, even

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[36] Robert Prieto, 'Governance: Key to Successful Program Management Delivery', *PM World Today*, (Vol.X, Issue III), March 2008. p. 4.

[37] ANAO Better Practice Guide—Implementation of Programme and Policy Initiatives, Canberra, October 2006, p.19.

[38] Key risks identified in the risk plan included the suitability of the application process, the appropriateness of program delivery and reporting by providers, and the correctness of program expenditure and acquittal.

though they submitted a risk plan as part of their applications. For example, seven of the 19 successful applicants included a risk of not being able to attract high numbers of participants in their risk plan, which did not lead to any reconsideration of the program risk plan. In light of some evidence of lower than expected participation (see Chapter 4), there was potential benefit in DEEWR formulating a program-level response to risks of low participation identified by providers, as part of its program risk planning.[39]

Conclusion

2.15 DEEWR's allocation of departmental roles and responsibilities for FWEIP, and the delivery model for education and information, were generally appropriate in light of the size, nature and objectives of the program. The program design addressed a number of key issues. Peak employer, employee, small business and community organisations were to be targeted for funding, which supported the program's reach and timely commencement of education and information delivery. Further, education and information content was to be produced by DEEWR to help ensure its efficient development and the consistency of material with the new legislation.

2.16 DEEWR's project planning for FWEIP was suitable for the initial implementation of the program but did not provide for early focus on how the performance of the program would be measured. DEEWR also developed a risk plan for FWEIP which covered a range of relevant matters, although the risk plan could have been used more systematically to inform program management.

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[39] DEEWR stated in its response to the Issues Paper that 'providers' risk plans were kept separate from the departmental risk plan intentionally. Risks inherent to each provider's program and treatments proposed by them were analysed as part of the review of progress reports. For example, the risk of low participation numbers and providers' treatments were specifically considered at this stage.

3.   Selecting and Engaging Providers

This chapter examines the design and conduct of the FWEIP grant selection process. It also examines DEEWR's engagement of service providers, including through funding agreements.

Introduction

3.1   Decisions made in assessing applications for Australian Government funding should be transparent and clearly documented. A well-defined, publicised and systematic grant selection process can assist in forming decisions and increase stakeholder confidence in the process. Without robust selection processes and controls in place there is an increased risk that funding may not effectively contribute to achieving program objectives.

3.2   Having selected grant recipients, it is essential to engage them through funding arrangements which incorporate appropriate terms and conditions to protect the Commonwealth's interests. In the case of FWEIP, it was also important to provide funding recipients with suitable education and information content, to be adapted for their delivery mechanisms and audience.

3.3   The ANAO examined for FWEIP, DEEWR's:

- grant selection process; and

- engagement of providers, including through funding agreements and development of education and information content.

Selecting providers

3.4   The process used to select grant recipients should be transparent, equitable and likely to select proposals that best represent value for money in the context of the objectives of the grant program. A structured and competitive grant application process allows for a stronger and more consistent comparison of the relative merits of proposed projects. A competitive process also supports equity of access and avoids the perception of bias in the selection process.

3.5 The ANAO examined the following steps taken by DEEWR to conduct the FWEIP grant selection process:

- the issue of invitations to a select group of organisations to apply for a grant;

- establishment of application requirements and an appraisal process, including assessment criteria to be used to assess applications; and

- the assessment of applications received and approval of grants.

Issuing invitations to apply for a grant

3.6 As discussed in Chapter 2, a key element of FWEIP's design was the plan to target peak employer, employee, small business and community organisations for grant funding, to maximise the reach of education and information activities. In February 2009, it was determined that funding be allocated through a competitive selection process in which a select list of these organisations be invited to apply for funding. DEEWR considered that this approach to the grant selection process balanced transparency and available timeframes. At the time, it was intended that program delivery would commence in May or June 2009, after the passage of the Fair Work Bill and prior to the commencement of the Act on 1 July 2009.

3.7 To develop a list of suitable potential applicants, DEEWR consulted with the then Minister's office and the Department of Innovation, Industry, Science and Research (DIISR). Consultation with DIISR was to ensure there were suitable potential applicants who could deliver education and information about the new legislation to small businesses. This was an important focus because of the significant changes to the small business 'unfair dismissal' laws.

3.8 On 9 April 2009 (following Royal Assent of the Act), DEEWR invited 25 organisations to submit applications for grant funding. The invitation to two of the organisations encouraged them to extend the invitation to any affiliate they deemed appropriate, and also advised the two organisations of DEEWR's preference for a coordinated and centralised approach to program implementation.

3.9   DEEWR's program documentation indicated that the invited organisations were selected based on their attributes. Specifically, DEEWR considered that the organisations:

- were peak employer, employee or community organisations;

- were reputable providers of industrial relations advisory and educational programs;

- had an ability to reach a broad and/or diverse target audience group; and

- would ensure major sectors of the economy are catered for.[40]

3.10   On 13 April 2009, the then Minister launched FWEIP and issued a media release on the program. The media release stated that 25 organisations had been invited to apply for a grant under FWEIP, 'based on their demonstrated expertise in delivering training of this kind and to ensure that major sectors of the economy are catered for'. The media release also referred to the Guidelines for Applicants published on DEEWR's website, which stated the attributes of the 25 organisations that had been invited to apply.

3.11   Following the media release, another 14 organisations that were not initially invited requested to apply for funding.[41] Seven of these organisations were invited to apply on the basis they also had the above attributes, and could comply with the closing date for applications of 1 May 2009.[42] The reason given in the selection panel's report to the decision maker for not accepting requests from the other seven organisations was that DEEWR considered they did not have the ability to reach a broad and/or diverse target audience group. However, as discussed later in this chapter, the ability to reach a broad and/or diverse target audience was one of the five application assessment criteria, and one-third of successful applicants were rated two out of five or 'poor' for this criterion as part of the application assessment process.

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[40]   DEEWR, *Fair Work Education and Information Program Guidelines for Applicants,* April 2009, p. 3; and *Fair Work Education and Information Program Report to Decision Maker: Panel Recommendations*, 2009, p. 2.

[41]   Additional organisations that requested to apply for funding were asked to submit a brief request, based on attributes mentioned in paragraph 3.9, as to why they should be considered.

[42]   The closing date for applications was not extended as DEEWR considered any extension would put at risk commencement of delivery of education and information activities in 2008–09.

3.12   Table 3.1 summarises invitation and application numbers, and indicates that one other organisation submitted an unsolicited application, that is, the organisation did not receive an invitation to apply, or request to apply. The application was assessed as being unsuitable.

Table 3.1

FWEIP grant invitation and application numbers

Organisations	Potential applicants	Applications received
DEEWR invited to apply	25	20
Affiliates of organisations invited to apply		8
Organisations that requested to apply, and were permitted to apply	7	5
Organisations that requested to apply, and were not permitted to apply	7	
Organisations that did not request to apply and were not invited to apply		1
Total	**39**	**34**

Source: ANAO analysis of DEEWR documents.

3.13   In this context, the promotion of a grant program to potential applications supports open, equitable and transparent access to the grant funding. The ANAO Better Practice Guide, which was applicable at the time of the FWEIP grant selection process, advised:

> A key ingredient of a successful grant program is a high level of interest from potential applicants. This means using appropriate and effective promotion, whether through modern technology or traditional media, to increase awareness in target groups.[43]

3.14   Notwithstanding the planned implementation timetable for FWEIP, there remained potential options available to DEEWR to better promote the grants prior to the Act receiving Royal Assent. For example, a concise and simple expression of interest process soon after the initial policy proposal was approved in November 2008 would have increased awareness of the grant program. Such an expression of interest process could also have provided a more transparent basis for inviting selected organisations to submit grant applications; informed DEEWR of the potential services and the geographic

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43   ANAO Better Practice Guide—Administration of Grants, May 2002, Canberra, p. 39.

and demographic coverage of potential applicants; and helped DEEWR identify and avoid gaps and overlaps of services.

3.15   In this regard, earlier and better promotion of FWEIP, including publication of the eligibility criteria to be used to invite organisations to apply, would have supported more open, transparent and equitable access to the grants. It would also have helped avoid excluding suitable organisations that may not have applied because they were not initially invited, were unable to submit an application by the closing date, or were unaware of the program.

Application requirements and the defined appraisal process

3.16   Usual practice in a grants program is to clearly outline the process and method to be used to select successful applicants in program guidelines, including assessment criteria and how they will be applied. Assessment criteria should reflect the objectives of the program and enable selection of proposals of the highest merit. The risks inherent in proposals should also be explicitly included in the comparative assessment process.

3.17   The Guidelines for Applicants were considered and approved in March 2009 by the Expenditure Review Committee of Cabinet, in accordance with the December 2007 *Finance Minister's Instructions*. The Guidelines for Applicants were provided to potential applicants as part of invitations to submit an application on 9 April 2009. They were also made available on the DEEWR website at the time of the media release on the program on 13 April 2009.

3.18   The Guidelines for Applicants met general expectations for the content of program guidelines set out in the ANAO's better practice guidance on grants administration. The Guidelines for Applicants covered:

- the purpose and objectives of the program;

- funding availability;

- the education and information delivery model and timeframe;

- information required from the applicants;

- the application assessment process including criteria, the role of the decision maker and a complaints process; and

- the terms and conditions for funding (through attachment of a draft funding agreement).

3.19   The Guidelines for Applicants required that by 1 May 2009 applicants must submit a:

- development plan, which described the type of services to be delivered, including how the provider would maximise its coverage;

- proposed budget;

- risk management plan;

- statement of compliance with the draft funding agreement and conditions for participation;

- completed financial viability questionnaire; and

- reporting and evaluation proposal;

3.20   The Guidelines for Applicants indicated that a selection panel of departmental staff would assess applications against the assessment criteria and provide recommendations to the DEEWR decision maker (the relevant Group Manager). The assessment criteria outlined in the Guidelines for Applicants were well-aligned with the program's objectives and considered value for money provided by proposals (the criteria are outlined in the text box below). The Guidelines for Applicants also indicated that the decision maker had absolute discretion to decide all matters relating to applications, including eligibility and the amount of any grant provided to successful applicants.

Assessment Criteria

- The applicant's ability to deliver all of the required education and information services in accordance with the objectives identified in the Guidelines for Applicants and as outlined in the applicant's proposal.

- The geographical coverage of the applicant's proposal, with particular reference to the extent to which the applicant proposes to provide services to regional, rural and remote areas as well as to major employment centres.

- The extent the services proposed in the development plan have the ability to reach a broad and or diverse target audience, including the applicant's ability to engage Indigenous Australians, those from non-English speaking backgrounds and persons with disabilities when delivering the education and information services.

- The extent to which the applicant presents innovative ideas for the delivery of the education and information services.

- The cost efficiency of the applicant's proposal, having regard to the amount of funding being sought, the scope of services proposed to be provided and the applicant's compliance with the draft funding agreement.

Source: *Fair Work Education and Information Program Guidelines for Applicants*, April 2009.

3.21   DEEWR developed an assessment evaluation plan for the criteria and other requirements detailed in the Guidelines for Applicants. The plan provided further direction to the selection panel, including by specifying that:

- the criteria would not be weighted;

- although ideally the successful applicants would deliver their model to each state and territory, including major centres as well as rural and regional areas, the panel would also give consideration to responses for the provision of services in single or multiple states or territories, or to single or multiple industries;

- education and information services must also be available to non-members of the applicant organisations; and

- employees, employers and small business would be targeted for the education and information services.

Assessment of applications and approval of grants

3.22   A three member selection panel assessed each application for funding against the assessment evaluation plan, including the above assessment criteria. The panel comprised two staff from DEEWR and one from the Workplace Ombudsman. The panel sought advice from DEEWR's Communications Branch, Risk Management Section and a probity advisor from DEEWR's Legal Investigations and Procurement Group.

3.23   The panel's assessment of each application was clearly written. A two to three page document summarised the application, the elements of the proposal that were recommended for funding, and a brief assessment against each of the assessment criteria. The panel's report to the decision maker included:

- a summary of the program;

- the applicants—both those originally invited and subsequently;

- the application requirements, the panel and the assessment process;

- a table summarising geographic coverage of applications; and

- the panel's recommendations, including the proposed strategies to balance funding requests with the available budget.

3.24   The provision of the mandatory information and assurances by each applicant was noted in the panel's assessment. However, applications that did

not provide these were not excluded from further assessment. Seven of the 34 applications did not provide all of the mandatory information and assurances, such as a risk management plan, a reporting and evaluation proposal, and an assurance they could comply with the terms and conditions of the draft funding agreement. Of these, one applicant received funding. Although the Guidelines for Applicants provided discretion to the decision maker to determine eligibility, it is generally accepted practice that applications which do not meet mandatory requirements do not proceed through the selection process.

3.25 Nineteen of the 34 grant applications that achieved a minimum total score of 14 out of 25 against the assessment criteria, and did not score less than two out of five for any single criterion, were recommended for funding. As a consequence of this methodology, almost half of the recommended proposals were rated two out of five or 'poor' for cost-efficiency, and one-third were rated 'poor' for their ability to reach a broad and/or diverse audience (Table 3.2).[44] Generally accepted practice for a selection process is that applicants rated 'poor' or equivalent for any criterion are not recommended for funding.

Table 3.2

Performance against assessment criteria (scores out of 5)

	Capacity to deliver	Geographic coverage	Target audience	Innovation	Cost efficiency
Average score for successful applicants	3.3	3.7	2.8	3.3	2.6
Percentage of successful applicants rated poor	0%	0%	32%	0%	47%

Source: *Fair Work Education and Information Program Report to Decision Maker: Panel Recommendations*, June 2009.
Note: The ratings in ascending order are: 0 non-compliant, 1 unacceptable, 2 poor, 3 acceptable, 4 good and 5 outstanding.

3.26 In recommending some, but not all, services proposed by applicants, and the allocation of less than their requested funding, the selection panel advised the DEEWR decision-maker that all recommended proposals would be

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[44] The descriptor used for a poor rating was: 'Specification requirements poorly addressed in some areas or not at all. Claims largely unsubstantiated. High risk'

cost-effective. In the case of reaching a broad and/or diverse target audience, DEEWR advised that it considered the holistic coverage of prospective providers as well as individual coverage, and determined that a larger group of providers would be more appropriate. In this context, there would have been merit in DEEWR clarifying through the Guidelines for Applicants, processes that would be used to determine actual funding amounts.

3.27 Table 3.3 summarises other aspects of the assessment of applications, including for certain assessment criteria.

Table 3.3

Assessment of applications

Requirement	ANAO commentary
Geographic coverage	Many applicants were nationally based, with demonstrated experience in reaching audiences across metropolitan, regional and remote areas. All successful applicants were rated 'acceptable' or 'good' for geographic coverage.
Innovation	The panel took a practical approach to the assessment of the innovative delivery of education and information services, by considering each applicant's capacity to target their presentations to the needs of their audiences. All successful applicants were rated as acceptable or better for the criterion.
Financial viability statement	Eight of the applicants were assessed as having high financial viability risk. Of these, four received funding. Payment of 45 per cent of the allocated funding upfront and the short-term nature of the program, ameliorated the level of financial risk, particularly for long-running organisations.
Reporting and evaluation proposal/risk management plan	Beyond the panel noting the submission or non-submission of the reporting and evaluation proposal and risk management plan, these items did not appear to be taken into consideration for the overall assessment. Successful applicants included risk management plans that 'required further development', that were 'not detailed given the high level of funding requested' and 'broad'. The probity advisor, who reported on the application assessment process, questioned how the panel could select providers that had inadequate risk assessments.

Source: *Fair Work Education and Information Program Report to Decision Maker: Panel Recommendations*, June 2009.

3.28 The total requested funding for the 19 providers that were assessed by the panel as being the most suitable was $23.8 million. The panel considered that in allocating the limited budget for grant funding, a wider field of providers delivering fewer services on average represented better value for money and lower risk. To meet the budget of $12.9 million, the panel determined which aspects of the proposed services of the 19 applicants should receive funding. This included substantial cuts to applicants' proposed budgets for marketing and administration and led to reduced costs of $14.2 million. The proposed budgets were further reduced by applying a cut of between 4 and 13 per cent for most applicants, with the reduction applied to higher scoring applicants less than lower scoring applicants.[45]

3.29 The panel's recommendations were approved by the DEEWR decision maker on 25 June 2009, in accordance with the requirements of the *Financial Management and Accountability Regulations 1997* applicable at the time.

3.30 DEEWR then informed successful applicants of the services they were to be funded to provide, as well as those they would not be funded to provide. The selection process resulted in approval of grants of $9.5 million to 15 employer organisations; $2.9 million to two employee organisations; and $446 000 to two organisations targeting both employers and employees.[46] The providers were selected to deliver broad ranging activities across many industries in metropolitan, regional and remote locations, with funding awarded varying according to the organisations' reach, and specifically, their agreed program of education and information activities.

3.31 In letters to the unsuccessful applicants, sent 25 June 2009, DEEWR invited them to raise any concerns with the department, and if not satisfied with the decision, with the Commonwealth Ombudsman. The letters provided contact details for the Panel Chair, to whom enquiries were to be directed in the first instance.

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[45] The scores and reductions were: score of 20-25, 0 per cent; 18-19, 4 per cent; 16-17, 9 per cent; and 14-15, 13 per cent.

[46] Although the organisations are identified by type as employer or employee; activities were not restricted on this basis and were available to both employers and employees.

Engaging providers

3.32   Having determined the education and information providers, services to be delivered and funding amounts, DEEWR was then responsible for engaging the providers on behalf of the Commonwealth through funding agreements. The department also developed education and information content for provision to providers, to be adapted for their delivery mechanisms and target audience.

Funding agreements

3.33   The document setting out the terms and conditions on which a grant is provided is commonly described as a 'funding agreement', and can take a variety of forms. Funding agreements should be based on an analysis of the risks, the nature of the grant, remedies for non-compliance and legal advice where appropriate.

3.34   DEEWR sent a funding agreement template with the letter of offer for the successful applicants to complete. DEEWR pre-populated the template with the approved deliverables of each provider. All funding agreements were finalised within two months of approval of the panel recommendations. This resulted in the commencement of education and information activities in late July 2009, which compared to the original plan of May or June 2009. The timeline for engaging providers is illustrated in Table 3.4.

Table 3.4

Timeline for engaging providers

Event	Date
Panel recommendations approved by the decision maker	25 June 2009
Funding agreements signed with providers	20 July 2009 - 17 August 2009
First seminar delivered	27 July 2009

Source: ANAO analysis of DEEWR documents.

3.35   The deliverables, terms and conditions included in the funding agreements provided a reasonable basis to protect the Commonwealth's interest. Each funding agreement:

- included a schedule outlining: the number of each type of activity to be delivered, including where relevant, by state and broad location (metropolitan or regional/rural/remote); education products to be produced such as fact sheets; marketing activities; a budget, including

costs by type of activity; risk management approaches; and monitoring and evaluation approaches for different activities;

- scheduled payments according to achievement of progress milestones, primarily provision of acceptable progress reports by providers;

- allowed DEEWR to:

  - reduce a provider's activities and the associated funding; or

  - terminate the contract because of the provider defaulting on the terms of the agreement; and

- required compliance with all applicable laws (for example, the *Privacy Act 1988* and the *Freedom of Information Act 1982*) and DEEWR policies relevant to FWEIP.

3.36 One aspect of the funding agreements that could have been improved related to their focus on delivery of education and information 'activities and products' by providers. The application process required providers to submit details of the 'approximate number of employees and employers intended to receive the information and education services' based on their ability to deliver education activities to the target audience. However, the majority of applicants provided details of their membership or reach rather than estimated participant numbers. Other applicants more accurately based their estimates of participation on previous experience delivering similar education programs. Foreshadowing inclusion of estimated participant numbers in funding agreements would have sharpened applicants' focus on the quality of their estimates. This could have strengthened the quality of key information used to assess applications, and created a key benchmark to be used in assessing each provider's performance.[47]

Developing the education and information content

3.37 As discussed in Chapter 2, it was decided that DEEWR should develop the education and information content for adaptation and delivery by the providers. The following content modules were developed by DEEWR, with copies sent to the providers by 3 August 2009:

- Overview—*Fair Work Act 2009*;

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[47] Given the inherent uncertainty in estimating attendance numbers, it would be necessary to allow a reasonable margin of error when using the estimates to assess providers' performance.

- Collective Bargaining Framework;

- Unfair Dismissal—employees and employers;

- Compliance with the *Fair Work Act 2009*—employees and employers; and

- Overview of Fair Work Australia and the Fair Work Ombudsman.

3.38 The content modules were aligned with the program's objectives and the intended areas of focus for education and information, as outlined in the Guidelines for Applicants. Further, in discussions with the ANAO, most providers were positive regarding the suitability of DEEWR's standard content modules.

3.39 Providers' modifications to the content modules were cleared by DEEWR prior to delivery of education and information activities.[48] This was to further manage the risks of inaccurate, inappropriate and/or inconsistent delivery of education and information on the Act. The providers advised the ANAO that DEEWR's clearance of their adapted education and information materials was timely.

3.40 The ANAO examined a sample of the providers' presentation material cleared by DEEWR to check its consistency with DEEWR's content modules. The presentation material examined related to education and information on termination of employment.[49] As is illustrated in Figure 3.1, most providers' presentation material covered matters pertaining to termination of employment in sufficient detail to convey the content of DEEWR's modules.

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[48]   Industry specific information and case studies did not require clearance by DEEWR.

[49]   Termination of employment included unfair dismissal, genuine redundancy, notice of termination and redundancy pay, and lodging a claim for unfair dismissal with Fair Work Australia.

Figure 3.1

Coverage of topics relating to termination of employment
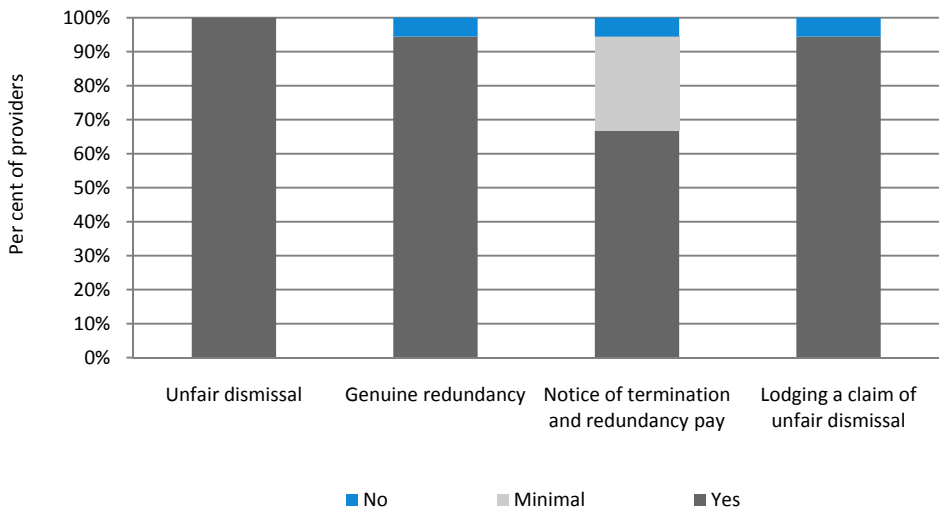
Source: ANAO analysis of providers' presentations.

3.41 DEEWR's development of education and information content and clearance of providers' adapted content, avoided excessive delays in development of education and information by providers. This approach also helped to ensure the consistency of education and information with legislation and between providers, and mitigated the risk that presentation of information by providers would be affected by a conflict of interest.

Conclusion

3.42 DEEWR invited 25 selected organisations to submit applications for grant funding on the basis that they: were peak employer, employee or community organisations; were reputable providers of industrial relations advisory and educational programs; and had an ability to reach a broad and/or diverse target audience group. Following a media release on the program, 14 other organisations requested to apply for funding, and DEEWR agreed to applications from seven of these organisations. In this context, DEEWR could have effectively canvassed potential interest, and supported more open, transparent and equitable access to the grants, through earlier and better promotion of the grants program.

3.43   The selection panel assessed the 34 grant applications received against assessment criteria published in the Guidelines for Applicants. The criteria were clearly linked to the program's objectives and considered value for money provided by proposals. Nonetheless, some aspects of the appraisal process did not follow generally accepted procedures. Specifically, applications that did not provide all mandatory information and assurances, such as a risk management plan, were not excluded from further assessment; and some of the successful applications received ratings of 'poor' for one or two of the criteria, including cost-efficiency. In recommending some, but not all, services proposed by applicants, and the allocation of less than their requested funding, the selection panel advised the DEEWR decision-maker that all recommended proposals would be cost-effective.

3.44   The grant selection process resulted in approval of grants of $9.5 million to 15 employer organisations; $2.9 million to two employee organisations; and $446 000 to two organisations targeting both employers and employees. Having selected the service providers, DEEWR engaged them through funding agreements which provided a reasonable basis to protect the Commonwealth's interests. The providers were also equipped with suitable education and information content which they adapted for their delivery mechanisms and audience.

4. Monitoring Providers and Assessing Program Performance

This chapter examines DEEWR's monitoring and performance assessment for FWEIP. The chapter also examines the composition and impact of FWEIP activities.

Introduction

4.1   A sound monitoring regime is a critical element in the effective administration of government programs. Monitoring is important throughout the life of a program, from implementation through ongoing management and post-implementation evaluation. It enables administering agencies to determine the extent to which funded organisations are complying with the terms, conditions and rules established in funding agreements and program guidelines, while also providing important information to allow agencies to assess and report to stakeholders on progress towards achieving program objectives.

4.2   The ANAO examined for FWEIP, DEEWR's:

- monitoring of providers' program delivery, internal reporting and review;

- performance information framework; and

- external reporting and evaluation.

4.3   The ANAO also examined the composition and impact of FWEIP activities with regard to the program's objectives and priorities, using information collected and reported by providers.

Monitoring, internal reporting and review

4.4   Integral to the success of the grant funding process is an ongoing monitoring regime to ensure grant recipients are meeting agreed milestones and other key requirements of funding agreements. The extent and timing of monitoring can be a challenge, particularly for smaller grant programs with limited resources. In this context, suitable internal reporting and review also support an organisation to assess program implementation and adjust management approaches.

4.5   DEEWR established three mechanisms to monitor each provider's compliance with the funding agreement, inform milestone payments and

program delivery, and as a basis for assessing the contribution of activities towards program objectives. These mechanisms were:

- provider reporting, as per the deliverables in Table 4.1, or initial monthly reporting for providers that were identified as high risk[50];

- day-to-day interaction with providers; and

- direct activity monitoring, which involved attendance at seminars and workshops, participation in webinars, and review of websites and online training tools.

Provider reporting

4.6 Providers were required to devise and submit details of their own method for reporting and evaluating the success of their activities, as part of their applications. Provider reports were to accord with the schedule and information expectations[51] outlined in the Guidelines for Applicants. Each provider's reporting and evaluation method was included in their funding agreement.

4.7 Under the FWEIP funding agreements, DEEWR was to make four payments to each of the providers according to the agreed milestones and deliverables detailed in Table 4.1. DEEWR's review of each progress report, and the final report and evaluation, determined the amount of each progress payment, if any, to be made.

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[50] Providers were considered high risk based on an assessment of their financial viability and/or if they were allocated more than $1 million in grant funding.

[51] Progress reports were to include details on: the number, industry and location of employees and employers who received different types of assistance; and feedback from audience groups such as employees, employers and small business.

Table 4.1

FWEIP milestones, reporting deliverables and funding levels

Milestone/Deliverable	Due date	Funding levels
Execution of funding agreements		45 per cent of total funding to be provided
Progress report	1 October 2009	30 per cent of total funding to be provided
Progress report	10 December 2009	15 per cent of total funding to be provided
Final report and evaluation by provider	30 April 2010	10 per cent of total funding to be provided

Source: ANAO analysis of funding agreements.

4.8   DEEWR reviewed each of the 54 provider reports it received, including providers':

- delivery of services and products;

- evaluation of the educational activities;

- marketing activities; and

- costs versus budgets.

4.9   DEEWR made payments to each provider after reviewing their progress reports and final report and evaluation, with two exceptions. Of the exceptions:

- One provider was paid the balance of the funding offered (55 per cent) in October 2009[52] when the second payment was due, because all agreed activities had been completed and reporting requirements had been fulfilled.

- Another provider did not receive the scheduled second payment as its performance was 'the subject of further scrutiny'. DEEWR had a range of concerns about the provider's performance involving: delivery of fewer activities than anticipated; low attendance at activities; reporting obligations not being met; insufficient focus on non-members; and the need for improved marketing. As a result, DEEWR closely monitored the provider's delivery. Further, following a forecast by the provider of lower delivery costs than initially expected, DEEWR and the provider

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[52]   That is, the second, third and fourth payments were made at the time the second payment was due.

agreed to a reduction in the provider's funding and the number of payments.

4.10   ANAO analysis of the providers' final reports showed that 11 providers reported spending a total of $101 154 more than their allocated funding, which was not paid by DEEWR. A further five providers reported underspending, or were unable to deliver all of their proposed programs, resulting in almost $1.1 million in reduced funding. For the three remaining providers, total expenditure outlined in the final report and evaluation matched the original funding allocation.

4.11   In summary, the provider reporting requirements were suited to the program. The requirements led to reporting of useful information on delivery but were not unduly onerous. DEEWR's review of provider reports, and adjustment of payment timing and amounts in some instances, demonstrated appropriate program oversight, including of compliance with funding agreements.

Day-to-day interaction with providers

4.12   The second of DEEWR's monitoring mechanisms was day-to-day interaction with the providers. DEEWR advised significant effort was invested in building positive relationships with providers and this contributed to the effective delivery of FWEIP. The day-to-day interaction involved:

- establishment of a specific program email address to enable all email correspondence with providers to be captured;

- regular telephone and email contact with providers, including in relation to rescheduling activities to manage the risk of low attendance;

- regular reporting of cancelled and rescheduled events[53];

- face-to-face meetings with and visits to providers;

- discussions about approval of promotional material, education and information material, and website content;

- variations to funding agreements; and

- additional requirements imposed on 'high risk' providers.[54]

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[53]   DEEWR advised that changes to planned activities that were open to the public, were approved by the department, recorded in an activities schedule, and publicised on the DEEWR website.

Direct activity monitoring

4.13   As mentioned above, DEEWR proposed to undertake direct activity monitoring through attendance at seminars and workshops, participation in webinars, and review of websites and online training tools. The FWEIP *Event Monitoring Guidelines* recommended at least two public education events be monitored by the administering department for each of the 19 providers, of which the first should occur early in the program. This was to ensure that activities were meeting the requirements of the funding agreements and Guidelines for Applicants, and to support program evaluation. In designing activity monitoring arrangements, DEEWR was cognisant that for previous programs of a similar nature, there had been repeated Parliamentary questioning regarding the method used by DEEWR to evaluate provider events.

4.14   The direct activity monitoring was conducted by staff from DEEWR and FWO. Providers were informed of the intention that an officer would attend or review the particular activity. Issues identified as a result of activity monitoring were reported back to the provider to address.

4.15   The level of direct activity monitoring that occurred was less than recommended in the FWEIP *Event Monitoring Guidelines*. Direct activity monitoring across the 19 providers included attendance at 11 seminars or workshops (of the 2479 conducted), participation in four webinars (of the 119 conducted) and completion of one online training tool, compared to the recommended monitoring of at least 38 activities.[55] Two activities were monitored in September and October 2009 with the remainder monitored in February and March 2010, after a large majority of provider activities had been delivered. Some providers were monitored more than once and seven providers were not monitored.

4.16   Feedback provided by DEEWR and FWO staff attending or participating in the monitoring activities varied from 'the provider's activity being well designed with excellent content' through to 'very dry with no questions asked and no industry specific examples provided'. Monitoring staff regularly commented on low attendance at seminars and workshops. For

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[54]   DEEWR provided samples of files notes and emails as evidence of its day-to-day interactions with the providers.

[55]   Due to the different descriptors used by providers it was not possible to determine an accurate total for the number of online training tools.

example, one of the staff feedback forms stated that 'the quality of the presentation was very high although there were only three attendees' (including the staff member). This reinforced the value of including the risk of low attendance that had been identified by successful applicants in their risk plans.

4.17   There were technical issues for two of the four monitored webinars, either no sound or no vision. Additionally, the presenter did not arrive at one of the monitored activities. DEEWR advised that as far as it is aware, this is the only occurrence of a presenter not attending.

4.18   In summary, DEEWR did not meet the level of direct activity monitoring recommended in the FWEIP *Event Monitoring Guidelines*. Additionally, the issues identified for those activities that were directly monitored indicated benefit in DEEWR at least meeting the level of activity monitoring recommended and better timing this monitoring.

Internal reporting and review

4.19   Internal program reporting and review help inform senior management about how well the program is being administered, and whether it is meeting its objectives. This assists senior management to ensure resources are allocated appropriately and risks are being effectively managed.

4.20   The FWEIP program team reported initially weekly, then fortnightly, to the Workplace Relations Reform Steering Committee. These reports were in a traffic light format and contained information about: recent progress (since the last meeting); the next steps (the week following the meeting); and any emerging program risks including impacts and mitigation strategies. The reports were brief due to the lower complexity and risk of FWEIP compared to other workplace relations programs. The traffic light reports were a reasonably effective snapshot of FWEIP.

4.21   An internal audit review of FWEIP commenced in October 2009 during the implementation phase of the program. The timing of the audit enabled the program team to adjust program management in response to emerging findings. The final audit report was presented to the DEEWR Audit Committee on 17 March 2010. Key findings of the internal audit were consistent with findings of this audit.

Performance information framework

4.22   An effective performance information framework can contribute to successful program management through informed decision making and use of resources, as well as appropriate accountability. Performance information provides evidence about performance and may be quantitative or qualitative, and should be verifiable.

4.23   The ANAO examined DEEWR's Portfolio Budget Statements (PBS)[56], the Guidelines for Applicants and funding agreements to determine the extent to which they formed the basis of a sound performance information framework.

Portfolio budget statements

4.24   In accordance with the Australian Government's budget reporting framework, agencies are required to establish in their PBS deliverables and key performance indicators for each 'Program'.[57] Deliverables represent the goods and services produced and delivered by the Program in meeting its objectives, while key performance indicators represent the primary means by which agencies address and achieve a government Outcome. Consequently, reporting on Program performance provides stakeholders, including government, with an indication of the relative success of a particular Program in achieving its Outcome.[58]

4.25   The appropriation for FWEIP was allocated in the 2009–10 Budget, for both that financial year, and as part of a revised budget for 2008–09. FWEIP was part of the administered item—Fair Work Education and Information Campaign, under Program 5.2 Workplace Assistance in DEEWR's 2009–10 PBS.[59]

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[56]   The foundation of agency accountability and transparency is performance information presented initially in agencies' PBS with results reported later in annual reports.

[57]   The term 'Program' here refers to a Program under the Government's Outcomes and Programs Framework.

[58]   Department of Finance and Deregulation, *Portfolio Budget Statements Constructors Kit,* 2010, pp. 62–65.

[59]   Program 5.2 formed part of Outcome 5: 'Safer, fairer and more productive workplaces for employers and employees by promoting and supporting the adoption of fair and flexible workplace arrangements and safer working arrangements'.

4.26 DEEWR's 2009–10 PBS did not include any deliverables for the Programs under Outcome 5, stating that 'the administered items address legal or administrative issues rather than advancing major government initiatives'.[60] The PBS did include a number of qualitative and quantitative performance indicators for Outcome 5. There were two quality indicators applicable to FWEIP that covered all payments made for program management under Outcome 5: meeting approved timelines; and calculations are accurate and in accordance with approved guidelines. Nonetheless, the performance indicators did not address the primary means by which FWEIP would achieve its objectives in support of Outcome 5, or provide for a sound performance information framework for the program.

Guidelines for Applicants and funding agreements

4.27 As mentioned above, providers devised their own method for reporting their activities, in accordance with the schedule and information expectations in the Guidelines for Applicants. Each provider's reporting and evaluation method was included in their funding agreement. The Guidelines for Applicants set expectations for progress reports to include the following performance information: the number, industry and location of employees and employers who received different types of assistance; and feedback from audience groups such as employees, employers and small business.[61]

4.28 The performance information generated through the provider reporting process informed DEEWR's program management and was useful for assessing program performance. Of particular note, attendee feedback forms for activities captured useful information directly relevant to assessing the success of each activity.[62] On the forms, attendees answered a range of questions on the impact of the activity by giving a rating from 1 (not at all) to

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[60] This was despite the delivery of education and information services through FWEIP to assist the implementation of the Act.

[61] Reliance on the providers' own predetermined reporting methods, in combination with reporting templates issued, led to different provider report content and styles for the first progress reports. As a consequence, it was difficult for DEEWR to consolidate the performance information provided through the reports in any meaningful way. To address this issue, DEEWR revised the reporting templates before the second progress reports were due. The revised reporting templates required the following performance information be submitted for provider activities: the number of attendees and whether they were employees or employers; the size of the business the attendees were representing; and samples of attendee feedback forms. The revised templates standardised and improved provider reporting.

[62] The providers summarised the attendee feedback in their final reports, and supplied a cross section of feedback forms to DEEWR.

5 (significantly). For example, the forms included a question on the extent to which the activity increased the attendee's understanding of the new workplace relations system and its practical application. This question related directly to FWEIP's first objective.

4.29   The performance information generated through the provider reporting process did not however cover FWEIP's second objective:

> timely advice and assistance on the new workplace relations system, in particular to ensure groups such as Indigenous Australians, those from non-English speaking backgrounds and people with disabilities receive targeted advice and assistance.[63]

4.30   In this context, DEEWR did not establish performance indicators through the PBS or other program documentation, at FWEIP's outset, to measure the achievement of FWEIP's objectives. The development of performance indicators at the outset of the program, commensurate with the program's size and nature, would have determined the data to be reported by providers, and resulted in more complete performance information to enable DEEWR to assess the program's performance.[64]

External reporting and evaluation

External reporting

4.31   External performance reporting should provide information that is capable of telling an accurate but succinct performance story about what has happened as a result of government actions.[65] Accountability for a grant program is usually achieved through the presentation of concise information in the agency's annual reports, if this information is not made available through other mechanisms.

4.32   FWEIP funding was from July 2009 to April 2010 which meant that details on the program were included in DEEWR's 2009–10 Annual Report. This report included: the aims of FWEIP; the amount of funding; the number of activities conducted by providers; the reported number of people who

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[63]   DEEWR, *Fair Work Education and Information Program Guidelines for Applicants,* April 2009, p. 2.

[64]   An internal audit review of FWEIP found that key performance indicators for the program were not clearly documented, and reporting of program performance did not refer to whether the program was achieving its key performance indicator targets.

[65]   Department of Finance and Deregulation, *Performance Information and Indicators*, 2010, p. 1.

participated in the education or information activities; and for websites developed for the program, the number of visits and downloads. The type of information in DEEWR 2009–10 Annual Report on FWEIP was generally appropriate, although there would have been benefit in supplementing the information presented with some evidence-based commentary on the extent to which the program had achieved its objectives.

Evaluation of FWEIP

4.33   Program evaluation is a valuable tool for administering agencies that are seeking to strengthen the quality of programs and improve outcomes. Through evaluation, agencies test the extent to which programs achieve their stated objectives.

4.34   Following completion of the program, FWEIP's performance against its objectives was assessed by the program team that was also responsible for administering the program.[66] FWEIP was evaluated against the following terms of reference:

- number of information and education activities undertaken by providers;

- participation rates;

- feedback from participants;

- resources developed;

- distribution channels for resources;

- number of resources accessed or provided; and

- performance of the providers against their obligations under the funding agreement.

4.35   As reflected by the above terms of reference, the evaluation examined many aspects of the education and information activities, and was positive about the overall impact of the program. Nevertheless, no performance information was collected to enable DEEWR to evaluate the extent to which Indigenous Australians, people from non-English speaking backgrounds and people with disabilities received targeted advice and assistance (the second

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[66]   It is sound practice for a program evaluation to be undertaken by individuals not directly involved in the program's management.

program objective). While recognising DEEWR conducted an evaluation of FWEIP, it is important to obtain sufficient feedback on program delivery so that evaluative work can assess performance against a program's stated objectives. In this respect, providers' proposals were required to cover how they would target assistance to groups such as Indigenous Australians, and DEEWR could have sought feedback from providers on their delivery of this assistance.

Composition and impact of education and information activities

4.36   The ANAO examined the composition and impact of FWEIP activities with regard to the program's objectives and priorities, using information collected and reported by providers. This included examination of: the number of activities and participants, by type of activity; the geographic coverage of activities; feedback on the quality and impact of activities; and the relative cost-effectiveness of different types of activities.

Activity numbers and participation levels

4.37   Integral to the success of FWEIP were delivery of the funded number of activities and good levels of participation in the activities. Table 4.2 shows the number of activities and participants, by type of activity, based on information collected and reported by providers. Some providers did not separately identify all education and information activities by type, which accounts for the difference between the identified number of activities in the following table (3449) and the total number reported to DEEWR (3550). In excess of 56 000 people participated in face-to-face or web-based activities[67], and over 82 000 people visited education and information websites.

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[67]   Of these, 40 per cent were employers, 40 per cent were employees and 20 per cent did not specify.

Table 4.2

Number of activities and participants, by type of activity

Activity	Number of activities	Number of participants
1. Seminars and workshops	2479	48 735
2. One-on-one consultations and small group briefings	901	3 275
3. Webinars	119	1 790
4. Online education, e-learning modules[a]	Not specified	2 379
5. Visits to websites[a]	Not specified	82 727

Source: ANAO analysis of provider reports.
Note: [a] Not all providers supplied information on participation in web-based education activity, or unique visits to websites. It is probable that participation in these activities has been underestimated.

4.38   A comparison of activities providers were funded to deliver with those reported revealed that reported activities exceeded the funded number by 9 per cent. Most providers conducted the same or a higher number of activities than that stipulated in their funding agreement.

4.39   As discussed in Chapter 3, the application process required providers to submit details of the 'approximate number of employees and employers intended to receive the information and education services' based on their ability to deliver activities to the target audience. The usefulness of the estimates as a basis for assessing actual participation against was limited because the majority of applicants submitted details of their membership or reach, rather than estimated participation numbers. Nevertheless, several providers reported that participation numbers were lower than expected, and that many registrants failed to attend. As shown in Table 4.3, 8 per cent of planned seminars and workshops were cancelled, rescheduled or had no attendees. A further 18 per cent of seminars and workshops had five or fewer attendees. Similarly, 28 per cent of webinars had five or fewer participants.

Table 4.3

Seminar and workshop attendance

	Cancelled or rescheduled	No Attendees	1 to 5 Attendees	Over 5 attendees
Metropolitan	5.0%	1.4%	16.7%	82.0%
Rural	5.2%	3.7%	19.1%	77.2%
Remote	10.2%	2.0%	22.4%	75.5%
Total	5.3%	2.4%	17.9%	79.7%

Source: ANAO analysis of provider reports.

Geographic coverage of activities

4.40   The Guidelines for Applicants emphasised the importance of delivery of education and information activities to metropolitan, regional and remote areas. Figure 4.1 illustrates that DEEWR achieved a good spread of activities throughout regional and remote Australia. These seminars and workshops were supplemented to some extent by webinars targeting remote locations, and individual consultations for industries operating in remote locations.

Figure 4.1

Seminar and workshop locations
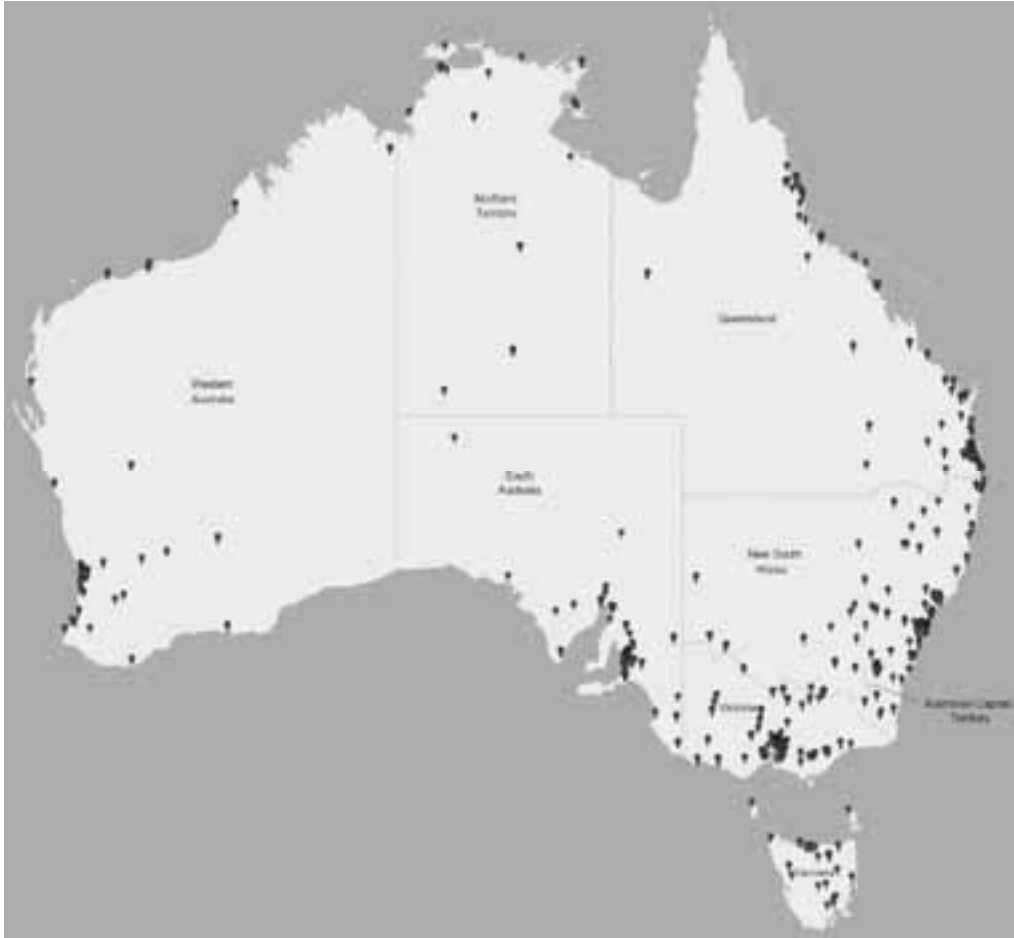
Source: ANAO analysis of provider reports.

Quality and impact of activities

4.41   As previously discussed, providers collected feedback from attendees using forms completed at the end of education or information activities. On the standard form, attendees rated quality indicators such as the increase in their understanding, the ease of understanding the information and the professionalism of the presentation. This was a good tool for gauging the quality of the activities. Most providers achieved a satisfactory rate of return for feedback forms.

4.42   The providers summarised the attendee feedback in their final reports, and supplied a cross-section of feedback forms to DEEWR. Based on these summaries, the response from attendees was positive for both the quality of

the presentation and increased awareness of the topic presented. The most common score for these questions was four out of five (or very good).

Cost-effectiveness of different types of activities

4.43 There were four main forms of education and information activities delivered under FWEIP: seminars and workshops; one-on-one consultations and small group briefings; webinars; and online education and e-learning modules. Depending on the type of activity and available data, the average cost per activity and per participant hour can be calculated. These measures represent partial indicators of the relative cost of different activities, but do not take into account factors such as:

- differences in average costs across providers;
- quality or location of the activity;
- the additional investment many providers put into answering participants' questions after each activity; or
- associated expenses such as preparation of materials, handouts and administration.

4.44 Table 4.4 shows the average cost per activity, and per participant hour, for different types of activities. The table also includes average participant feedback scores to the extent available.

Table 4.4

Average costs per activity and participant hour, by type of activity

Activity	Number of providers funded for this activity[a]	Average cost per activity	Average cost per participant hour	Average participant feedback score (out of 5)
Seminars and workshops	17	$2500	$73	4
One-on-one consultations, small group briefings	11	Not available	Not available	3.5
Webinars	4	$1800	$83	4
Online education, e-learning modules	3	Not available	$20 - $550[b]	Feedback was very limited but positive

Source: ANAO analysis of DEEWR documents.
Note: [a] Not all providers were funded to deliver all types of activities.
          [b] A range is used for this activity because of the disparity between the least and most expensive providers.

Different types of activities—feedback on effectiveness

4.45 All providers considered seminars and workshops were highly valuable and relevant. The presentations were able to be tailored to the target audience and enabled more personal interaction than web-based formats.

4.46 Individual consultations enabled attendees to focus on those aspects of the workplace relations system of most direct relevance to their business. Not all providers gave separate evaluations for individual consultations. There was also little by way of reported information on the nature and costs of the consultations.

4.47 Providers advised that webinars are an important niche market, but that only a minority of industries were willing to consider webinars at this point in time. Not all providers gave separate feedback for webinars.

4.48 Online education and e-learning modules were important for individuals not able to participate in face-to-face activities, and the limited feedback obtained for these activities was positive. One provider was funded to develop and market a portal with a range of resources, including five subjects presented in a two minute summary and a 30 minute video. These were available in English and six other languages. There were in excess of 37 000 unique visits to the portal and the average time spent on the site was 3.56 minutes. No data was reported on whether videos were completed or useful. Consequently, DEEWR was unable to report on the uptake of the materials and the demand for translated information.

4.49 Take-up rates versus expectations for providers' web-based education varied markedly, highlighting that close attention should be given to estimates of demand when considering cost-effectiveness of web-based proposals. For future reference, there would also be merit in identifying, sponsoring or undertaking research on the use and effectiveness of alternate education and information mechanisms for particular industries, sectors and target groups.

Conclusion

4.50 DEEWR monitored the service providers' delivery of education and information through analysis of their progress reports, day-to-day interaction and direct activity monitoring. While established monitoring arrangements were well suited to the program, in practice DEEWR undertook less by way of activity monitoring than envisaged. This was despite identifying a number of delivery issues for the few activities that were directly monitored.

4.51   Service providers collected and reported attendee feedback which was used by DEEWR to assess the increase in participants' understanding of the new workplace relations system (the first program objective). No information was collected to allow DEEWR to assess whether Indigenous Australians, those from non English speaking backgrounds and people with disabilities received targeted advice and assistance (the second program objective). While recognising DEEWR conducted an evaluation of FWEIP, it is important in implementing programs to have regard to the performance information required, so that performance against a program's stated objectives can be assessed over time, and in the context of an evaluation.

4.52   The ANAO analysed program performance using information collected and reported by providers. In the nine months following commencement of the Act, some 3550 education and information activities were held across a broad spread of metropolitan, regional and remote locations, with reported activities exceeding the planned number by 9 per cent. More than 52 000 people attended face-to-face education and information activities, over 4000 people participated in web-based activities, and over 82 000 people visited relevant websites. The activities were held across a broad spread of metropolitan, regional and remote locations, with participants providing positive feedback on the quality of presentations and for increased awareness of the topic presented.

Ian McPhee   Canberra ACT

Auditor-General   15 September 2011

Appendices

Appendix 1: Selected Providers

Table A 1

Providers by type and their allocated funding[68]

Provider	Type	Approved Allocation	Total by type
1. ACT & Region Chamber of Commerce & Industry	Employer	$156 600	
2. Aged & Community Services Australia	Employer	$208 800	
3. Australian Mines and Metals Association	Employer	$435 000	
4. Australian Chamber Alliance	Employer	$2 548 000	
5. Australian Hotels Association	Employer	$234 900	
6. Australian Industry Group	Employer	$1 911 000	
7. Australian Retailers Association	Employer	$400 200	
8. Australian Road Transport Industrial Organisation	Employer	$217 500	
9. Council of Small Business Organisations of Australia	Employer	$2 220 000	
10. Master Builders Australia	Employer	$282 100	
11. Master Grocers Australia	Employer	$151 647	
12. National Farmers Federation	Employer	$348 000	
13. National Retail Association	Employer	$217 500	
14. Restaurant and Catering Industry Association of Australia	Employer	$130 500	
15. Victorian Automobile Chamber of Commerce	Employer	$69 600	Employers **$9 531 347**
16. Job Watch	Employee	$364 800	
17. Australian Council of Trade Unions through the Union Education Foundation	Employee	$2 549 023	Employees **$2 913 823**
18. Recruitment and Consulting Services Association	Employer/Employee	$136 500	
19. Australian Human Resources Institute	Employer/Employee	$309 400	Employer/Employee **$445 900**

Source: Deputy Prime Minister's Press Office, Media Release, 29 June 2009, 'Fair Work Education and Information program grants'.

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[68] While the organisations are identified as employer or employee; activities were open to both.

Appendix 2:   DEEWR Response

The Department of Education, Employment and Workplace Relations (DEEWR) appreciates the opportunity to participate in the performance audit of the Fair Work Education and Information Program (FWEIP).

In its report, the ANAO concluded that DEEWR's administration of FWEIP was reasonably effective in facilitating delivery of suitable education and information activities on Australia's current national workplace relations system. More particularly, the Report notes that:

- senior management's oversight of FWEIP was appropriate in light of the size, nature and objectives of the program;

- program planning and design generally were appropriate in light of the nature of the program, and that a well positioned cohort of service providers were selected and engaged to deliver broad ranging activities;

- for the most part, monitoring, reporting and evaluation of the program were suitable given the key characteristics of the program, including its size; and

- DEEWR's decision to supply providers with program content which they then adapted for their delivery mechanisms and audience, was an effective approach, and mitigated the risks associated with delays in developing materials; content consistency with legislation and between providers; and the potential for providers' materials to be affected by a conflict of interest.

The ANAO has acknowledged activities delivered by service providers exceeded the number funded by nine per cent and also noted that feedback from activity participants indicated that the program increased awareness of the new workplace relations system and its practical application.

DEEWR notes that the ANAO has not made any recommendations as the program has now been completed, however the Report includes some constructive comments in relation to effective promotion of grant programs, consideration given to grant application assessment processes, and establishment of key performance indicators during the implementation phase. DEEWR accepts the ANAO's comments and is of the view that these will result in the strengthening of future grant implementation and administration within the department.

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