
From: s47E(c) s47F
Sent: Thursday, 29 February 2024 10:54 AM
To: s47E(c) s47F
Cc: s47E(c) s47F
Subject: Attachment A - WMoW transition Contract Variation.docx [SEC=OFFICIAL]
Attachments: Attachment A - WMoW transition Contract Variation.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: 0415, 0400, 0377, Filed to Content Manager

Hey s47E this is for the MMA contract variation
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On page 46 (highlighted points) – s47G



Commitment Approval Minute

To: Russell Herald

Assistant Secretary, Home Support Operations Branch

COMMITMENT APPROVAL FOR MILES MORGAN AUSTRALIA PTY LTD TO TRANSITION THE WHITEHORSE MEALS ON WHEELS OPERATIONS TO NEWCASTLE MEALS ON WHEELS.

TRIM File Number: E24-8948

RECOMMENDATIONS:

APPROVE the contract with Miles Morgan Australia (MMA) to transition the Whitehorse Meals on Wheels operations to Newcastle Meals on Wheels (NMoW) to ensure services are not impacted and clients continue to receive meals under the CHSP (Attachment A).	APPROVED / NOT APPROVED
APPROVE expenditure of \$1,534,428.68 (GST Exclusive) / \$1,687,871.55 (GST Inclusive) in 2023-24 under Section 23(3) of the <i>Public Governance, Performance and Accountability Act</i> (PGPA Act).	APPROVED / NOT APPROVED
APPROVE payment of \$613,771.47 (GST exclusive) / \$675,148.62 (GST inclusive) when the contract has been executed, noting the prepayment will allow the Consultant to undertake necessary recruitment and sub-contracting to assemble a team for the transition. This is in line with Finance Business Rule R2.1, 5.e and the risk assessment is low.	APPROVED / NOT APPROVED
NOTE the Finance Business Partner advice on funds availability and Expenditure information form (Attachment B).	NOTED
NOTE the Value for Money assessment and MMA proposal (Attachment C).	NOTED / PLEASE DISCUSS
NOTE the Indigenous Procurement Policy mandatory set-aside does not apply to this procurement (Attachment D).	NOTED / PLEASE DISCUSS
CONFIRM the information provided in this commitment approval has fully addressed the <u>Delegate's Checklist</u> before exercising a delegation to approve the commitment of funds - PGPA Act Section 23 (3) - or enter into an arrangement - PGPA Act Section 23 (1). Delegates need to assure themselves that the procurement is compliant and documented (Attachment E).	CONFIRMED / PLEASE DISCUSS
NOTE the overall Risk Profile of this procurement is Low (Attachment F).	NOTED/ PLEASE DISCUSS
NOTE the contract will be sent to MMA for signature upon your approval of this minute.	NOTED/ PLEASE DISCUSS
NOTE the commitment approval will work-flow to you via SAP ESS for online approval.	NOTED / PLEASE DISCUSS

Prepared by:

s47E(c) s47F

Assistant Director

CHSP and Continence Policy

Home Support Operations Branch

16 January 2024

Approved by:

Russell Herald

Assistant Secretary

Home Support Operations Branch

Home and Residential Division

19 January 2024

1. BACKGROUND/CONTEXT

The Department contacted Miles Morgan Australia (MMA) early January 2024 seeking a proposal to transition the Enterprise Resourcing Planning (ERP) software, oversight and support of Whitehorse pilot site to Newcastle Meals on Wheels (NMoW). This will ensure services are not impacted at Whitehorse and clients continue to receive meals under the CHSP.

To date, MMA has had to divert additional resources from within its organisation to support the Whitehorse pilot site and cannot sustain the resource intensity long term. This is directly impacting MMA's ability to manage its other consultancy commitments. The transition project serves as a bridge between existing system and new system, facilitating a seamless transfer of financial and operational procedures to NMoW staff and volunteers. These services are vital for the wellbeing of the clients/older Australians in the region, as any disruptions could have adverse impacts to their health, wellbeing and overall quality of life.

MMA will therefore transition the following to NMoW:

1. Provide software (ERP) sustainment, licencing, user onboarding and training
2. Transition to business-as-usual
3. Provide a transition report and document the handover.

The objective of Future Fit is to provide the Meals on Wheels network with support mechanisms designed to:

- Ensure future business decisions are evidence based.
- Benchmark financial viability.
- Stabilise the network's backbone infrastructure (process and technology).

The ERP is currently being piloted in Whitehorse through standard CHSP grant agreements with Newcastle Meals on Wheels (NMoW).

The pilot site is a critical component of Future Fit which may support the establishment of a feasibility study which will test technology and policies, such as the consistent meal definition, nutritional requirements and social support, with a broader group of Meals on Wheels (MoW) providers. The study will investigate whether a meal output can be better defined to drive improved choice and control. This investigation will cover how to incentivise suitable meal choices, while respecting the dignity of clients, within the current block grant funding arrangements. This is a critical step to ensure sector viability when CHSP transitions to the new Support at Home Program in 2027.

2. PROCUREMENT METHOD

Since 11 October, the Mandatory Whole of government management advisory services panel (MAS) was fully established. The services outlined are specialist in nature. In reviewing the MAS panel, it is determined that no other provider has the relevant or appropriate level of knowledge, experience or reach to undertake the services required. As such the department has assessed this requirement would satisfy Section 11 of the MAS Panel User Guide that states: "specialist consultancy services that are unique to Agencies that are not provided through the Service Categories".

In this instance, the Flexibility Framework of the MAS panel (which allows five percent of the department's off panel annual spend on management consultancy services) does not need to be applied in the application of this paragraph, nor the resulting expenditure captured under this flexibility framework. By following the process embedded in the Department of Health Procurement Method Decision Tree, this procurement will be compliant with the requirements of the Commonwealth Procurement Rules (CPRs).

While this is deemed a consultancy, the Mandatory Whole of government Management Advisory Services panel (MAS) does not apply in this circumstance.

This procurement was conducted through a Limited Tender. As the procurement is over the relevant threshold (\$80k GST Inc), condition 10.3.d.iii of the CPRs for "*when the goods and services can be*

supplied only by a particular business and there is no reasonable alternative or substitute” was used. This LT condition was used due to an absence of competition for technical reasons. Noting that MMA have been heavily involved in the business transformation and technology modernisation project from 2021. They own and hold deep knowledge of the ERP, its development roadmap and functionality and have established strong working relationships with both WMoW and NMOW stakeholders.

This is a limited tender for a short-term project of approximately 8 weeks to transition Whitehorse MOW operations from MMA to Newcastle Meals on Wheels.

The Procurement Advisory Service (PAS) has endorsed the procurement package.

3. INDIGENOUS PROCUREMENT POLICY - MANDATORY SET-ASIDE (MSA)

The IPP Mandatory Set-aside does not apply to this procurement (**Attachment D**).

4. OUTCOME OF EVALUATION / VALUE FOR MONEY

The value for money assessment is rated as Good (**Attachment C**) and due to the nature of the project is low risk to the Commonwealth. MMA proposal is at Attachment C.

5. TIMEFRAME

The contract term for the transition project is from execution until 31 May 2024.

One extension period of up to 2 months is included in the contract. Any extension of the services contract will be at the sole discretion of the Commonwealth.

6. CONTRACTUAL ARRANGEMENT

The appropriate form of contract has been prepared at **Attachment A**.

Contract Manager

The nominated Contract Manager for this arrangement is Gareth Smith, CHSP and Continence Policy Section, Home Support Operations Branch. The nominated Contract Manager will monitor compliance with all aspects of the contract in line with the [Contract Management Plan](#).

7. EXPENDITURE APPROVAL AND FUNDS AVAILABILITY

The cost to the Department is \$1,534,428.68 (GST Exclusive) / \$1,687,871.55 (GST Inclusive) in 2023-24.

This is within your delegation limit under the Accountable Authority [Financial Delegations](#) (PGPA s23) Schedule 1 (No. 6 of 2023), 15 August 2023, Table 1, Item 3, to approve proposals to commit relevant money up to \$70 million (Administered).

The Finance Business Partner has confirmed that the funds are available in 2023-24 from Priority 065 – Commonwealth Home Support Programme and cost centre 7136 (**Attachment B**).

Funding is provided as follows:

Deliverable	Amount (GST exclusive)	Amount (GST inclusive)	Payment Date
Software sustainment and user onboarding	\$613,771.47	\$675,148.62	Following execution
Transition to BAU	\$613,771.47	\$675,148.62	12 February 2024
Close out and document handover	\$306,885.74	\$337,574.314	8 March 2024
Total	\$1,534,428.68	\$1,687,871.55	

Pre-payment

Due to the short timeframe of the transition project, technology pre-requisites and the need to engage sub-contractors with relevant expertise, a payment of \$675,148.62 (including GST) is required to be made to MMA on execution of the contract. This will ensure Whitehorse can continue to provide meal services to clients without interruption.

This payment is being made upon receipt of a correctly rendered invoice. Under Finance Business Rule R2.1, 5.e <https://www.ato.gov.au/Forms/Deductions-for-prepaid-expenses-2021/?page=2> Pre-payment/Up-front payment is a decision and accountability of the financial delegate.

8. STAKEHOLDER CONSULTATION

Endorsement by Procurement Advisory Services

The procurement process has been undertaken in accordance with the Department's Procurement Process and the Commonwealth Procurement Rules (CPR). Procurement Advice Service (PAS) has provided endorsement to this document package.

9. GENERAL

Risk Management

The risk profile is Low (**Attachment F**). There is no conflict of interest issues raised throughout the process. Any significant risks and mitigations identified will be advised to the delegate.

Internal Reporting Requirements

Under the Department's Procurement Processing and Management policy, contracts must be registered within 5 business days of execution.

External Reporting Requirements

The contract will be reported on the Department's website in accordance with the Senate Order requirements of July 2001 (Murray Motion). As the contract is valued over \$10,000 it will be reported on AusTender within 42 days of entering into the contract, in line with the Commonwealth Procurement Rules (Division 1, Item 7, Reporting arrangements).

Documentation

The documentation is held in TRIM File E23-269314. All relevant documentation leading up to the contract has been filed in accordance with Corporate Business Rule 2: Information Management and Record Keeping.

10. COMPLIANCE WITH FINANCIAL AND PROCUREMENT POLICIES

These procurements have been conducted in accordance with the Department's financial and procurement policy framework (Delegate's Checklist).

Attachments:

- A. Future Fit pilot Whitehorse site transition - Contract
- B. FBP confirmation of funds
- C. Value for Money Assessment & MMA proposal
- D. IPP checklist
- E. Delegates Checklist
- F. Risk Profile



Value for Money Assessment

This document describes the evaluation process used to determine value for money for procurements where one supplier has been approached for a quotation, or an unsolicited proposal has been received.

The findings and recommendations of the evaluation are recorded below.

Background

On 3 January 2024, the Department became aware of MMA's inability to continue providing intensive support at the Whitehorse Meals on Wheels (WMOW) site. As a result, the department approached Miles Morgan Australia (MMA), via phone, seeking a proposal to transition the Enterprise Resourcing Planning (ERP) software, operations, and support of Whitehorse pilot site to Newcastle Meals on Wheels (NMoW). A quotation was received on 4 January 2024 from MMA for consideration.

The process followed for this procurement has complied with the Commonwealth Procurement Rules and with the agency's internal requirements.

Previously, the department engaged MMA in 2021 to undertake a business transformation and technology modernisation project (Future Fit) with front-line Meals on Wheels providers who opted to participate. The governance arrangements and portfolio of work was revised on 29 September 2022, and included the development of Enterprise Resource Planning (ERP) software.

MMA worked with the state associations directly and built close working relationships with Meals on Wheels (MoW) NSW and MoW QLD, along with two Victorian test sites. They have done a thorough review of the MoW network, identifying challenges and opportunities to help build capability within individual services.

The new ERP is currently being piloted in Whitehorse through a standard CHSP grant agreement with Newcastle Meals on Wheels (NMoW).

The site is being heavily supported by MMA and will transfer the operations of the Whitehorse site to NMoW to prevent meal service disruptions. This assessment considers value for money to onboard MMA, and fully transition and operationalise the software and data processes to ensure services continue at the WMOW site.

Evaluation Team

The evaluation team consisted of:

- s47E(c) s47F (Director, CHSP and Contingency Policy) – Evaluation Member
- s47E(c) s47F (Assistant Director, CHSP and Contingency Policy) – Evaluation Member
- s47E(c) s47F (Assistant Director, CHSP and Contingency Policy) – Evaluation Member
- s47E(c) s47F (APS6, CHSP and Contingency Policy) – Evaluation Member

<i>Evaluation Scale</i>	
Very Good	The Offer satisfies the Selection Criterion to a very high standard and presents minimal or no risk to the Commonwealth and its claims are fully supported by the information provided.
Good	The Offer satisfies the Selection Criterion to a high standard and/or presents limited risk to the Commonwealth. The Respondent's claims, in the view of the Evaluation Committee (EC), are supported by the information provided.
Satisfactory	The Offer satisfies the Selection Criterion to a satisfactory degree and/or presents an acceptable level of risk to the Commonwealth. In the view of the EC, there are some minor deficiencies and shortcomings in the information provided.
Poor	The Offer barely satisfies the Selection Criterion and/or presents some degree of unacceptable risk to the Commonwealth. In the view of the EC, there are major deficiencies in the information provided.
Unsatisfactory	The Offer does not satisfy the Selection Criterion and/or presents an unacceptable level of risk to the Commonwealth.

Findings of the Evaluation

Evaluation Assessment	
Criteria	Supplier: Miles Morgan Australia (MMA)
Extent to which the supplier's offer met the Commonwealth's requirement set out in the RFQ	s47C
Supplier's capacity to provide the requirement.	
Total costs to be incurred by the Commonwealth.	\$1,534,428.68 (GST Exclusive) / \$1,687,871.55 (GST Inclusive)
Overall i.e. Value for Money	s47C

	s47C
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Additional Comments

The transition project serves as a bridge between existing systems and new system, facilitating a seamless transfer of financial and operational procedures to NMoW staff and volunteers. These services are vital for the wellbeing of the clients/older Australians in the region, as any disruptions could have adverse impacts to their health, wellbeing and overall quality of life.

Moreover, the pilot site is a critical component of Future Fit which may support the establishment of a feasibility study (the study) which will test the technology and policies, such as the consistent meal definition, nutritional requirements and social support, with a broader group of MoW providers. Among other sites, the WMoW pilot site will investigate whether a meal output can be better defined to drive improved choice and control. This investigation will cover how to incentivise suitable meal choices, while respecting the dignity of clients, within the current block grant funding arrangements. This is a critical step to ensure sector viability when CHSP transitions to the new Support at Home Program in 2027.

Recommendation

The evaluation team recommends the Department proceed to commitment approval and contract with MMA to transition software and data within the ERP to NMoW for the Whitehorse pilot site.

The value of this transition project is \$1,534,428.68 (GST Exclusive) / \$1,687,871.55 (GST Inclusive).

Approval to proceed

The delegate must provide email approval of the recommendation to enter into contract negotiation / commitment approval and contract with MMA.

The contract **must not** be signed until the delegate has approved the commitment approval in SAP.



Procurement Information for Delegates

Background

The Public Governance, Performance and Accountability Act 2013 (PGPA Act) is the cornerstone legislation of the Commonwealth Resource Management Framework.

The Commonwealth Procurement Rules (CPR's) are the keystone of the government's policy framework. The rules enable entities to design procurement processes that are robust and transparent while permitting innovative solutions that reflect the scale, scope and risk of the desired outcome.

Procurement encompasses the whole process of procuring goods and services. It begins when a need has been identified and a decision has been made on the procurement requirement.

Achieving value for money is the core rule of the CPR's. Officials responsible for procurement must be satisfied, after reasonable enquires, that the procurement achieves a value for money outcome.

Officials are required to undertake procurement and contracting activities in an efficient, effective, economical and ethical manner that achieves value for money in a whole-of-process way.

Health's Accountable Authority Instruction's (AAI) and applicable Finance Business Rules (FBR's) must be followed in all instances of procurement within the Department.

Procurement Thresholds

The procurement thresholds (including GST) are:

- for non-corporate Commonwealth entities, other than for procurements of construction services, the procurement threshold is \$80,000;
- for Prescribed Corporate Commonwealth Entities, other than for procurements of construction services, the procurement threshold is \$400,000; or
- for procurements of construction services by relevant entities, the procurement threshold is \$7.5 million.

Procurements valued over the thresholds must be conducted through either an:

- Open Tender;
- Panel (either Whole of Government, Health or other agency); or
- Limited Tender (only when Division 2 and/or Appendix A of the CPR's can be satisfied).

The Procurement Method Decision Tree will help determine the appropriate method for your procurement.

A procurement must not be divided into separate parts solely for the purpose of avoiding a relevant procurement threshold. When the maximum value of a procurement over its entire duration cannot be estimated, the procurement must be treated as being valued above the relevant procurement threshold.

Relevant Links and Contacts

[PGPA Act](#) | [CPR's](#) | [AAI's](#) | [FBR's](#) | [Procurement Intranet](#) | **Procurement Advisory Services (PAS) Section**

Contact PAS via phone on 02 6289 5924 or email procurement.advice@health.gov.au

Attachment A - Key Considerations for Delegates

Before exercising a delegation to approve the commitment of funds - PGPA Act Section 23 (3) - or enter into an arrangement - PGPA Act Section 23 (1), Delegates need to assure themselves that the procurement is compliant and documented:

Checklist Item (To be completed by Procuring Official)	Checked
Approval documentation clearly identifies what is being procured, total cost and length of contract	☒ Yes ☐ No
Do I have the correct delegation to approve the requested expenditure	☒ Yes ☐ No
Is there sufficient budget available to commit expenditure for this procurement (Financial Business Partner confirmation) including expenditure beyond the current financial year?	☒ Yes ☐ No
Is the process undertaken compliant with PGPA, CPR's, AAI's and FBR's	☒ Yes ☐ No
If applicable, has the procurement process considered and applied a Whole of Government Panel	☐ Yes ☐ No ☒ N/A
If applicable, does the Indigenous Procurement Policy apply to the procurement, and if a suitable supplier cannot be identified has this been clearly documented. If your Planned procurement is estimated to be above \$7.5 million you must consult procurement.advice@health.gov.au to ensure compliance to the policy.	☐ Yes ☐ No ☒ N/A
Identified an existing panel arrangement to provide the goods or services	☒ Yes ☐ No ☐ N/A
If a limited tender was undertaken, can the Limited Tender satisfy a condition for limited tender from CPR (10.3) or CPR Appendix A (over the relevant threshold)	☒ Yes ☐ No ☐ N/A
Have any probity issues (perceived or real) been considered, documented and mitigated	☒ Yes ☐ No
For all Covered Procurements (over \$80,000 and covered by Div. 1 and 2 of the CPR's) you must ensure you comply with the requirements under the Government Procurement Judicial Review Act, 2018 . Seek advice from PAS if you are unsure.	☐ Yes ☐ No ☒ N/A
If approval for PGPA Act Section 60 (indemnities/contingent liabilities) is required has it been documented and approval obtained, prior to Section 23 (3) approval	☐ Yes ☐ No ☒ N/A
Risk (WHS and procurement) has been considered and where necessary have put in steps to mitigate	☒ Yes ☐ No
The correct contract to procure the goods or services (for example Commonwealth Contracting Suite, panel Official/Work Order or ICT source contract) is being used	☒ Yes ☐ No
If required, has legal advice been obtained (for example review of changes to contractual terms and conditions)	☐ Yes ☐ No ☒ N/A
Has correctly assessed any applied requests to keep certain information within the resultant contract confidential	☐ Yes ☐ No ☒ N/A
Has Procurement Advisory Services (PAS) reviewed and endorsed the procurement process and associated documents	☒ Yes ☐ No ☐ N/A
Stored all relevant procurement documentation in TRIM	☒ Yes ☐ No

Template – Deed of Variation (Procurements and Grants)

NOTES (FOR INTERNAL USE ONLY)

Refer to all notes and all yellow highlights when completing and checking the details.

Always delete all notes (including these first two pages) and all yellow highlights before sending to the Existing Party.

Name	Deed of Variation (Procurements and Grants)
What should this template be used for?	This template is to be used when the Department is varying an existing agreement such as: ✓ a grant agreement or funding deed; ✓ a consultancy agreement; or ✓ a contract for goods or services, including an official order.
What should this template not be used for?	This template is not intended to be used in any of the following circumstances: ✗ where the existing agreement has already terminated or expired; ✗ if the type of the work, deliverables or tasks to be added is significantly more than under the existing agreement. You should do a new agreement instead of a variation; ✗ if the value of the additional work is disproportionately more than under the existing agreement. You should do a new agreement instead of a variation; ✗ if one of the parties does not want to vary so that the variation cannot be agreed; ✗ if the existing agreement is being terminated for breach or convenience; ✗ if the Department's internal contract management system (e.g. FOFMS) requires a different template to be used; ✗ if the existing agreement or deed is a multi-party agreement (i.e. 3 parties or more); ✗ if the existing agreement provides an internal contractual mechanism for changes, such as a Change Order or provision of a Notice; ✗ if the type of agreement is a memorandum of understanding, a deed of standing offer or head agreement; or ✗ if a novation is more appropriate in the circumstances, because the other party is going to be a different legal entity with a different ABN (see Notes to Template - Deed of Novation and Variation (Procurements)).
How to complete this template	To prepare this template for use and signature, you should: • read these Notes pages and remove them before sending this document to the other party; • review and complete all details (see yellow highlighted fields in Schedule – Deed Details); and • select and complete the correct Existing Party execution block on the Execution page after referring to the Execution Guide for Signing Deeds. DO NOT AMEND ANY OF THE TERMS AND CONDITIONS OF THIS DEED WITHOUT SEEKING LEGAL ADVICE.
Key points to remember	You should always check that you are working with the most up-to-date version of the existing agreement, including its existing variations. All existing variations (if any) should be recorded in Item 3 of the Schedule, whether they are a Deed of Variation, a Letter of Variation or a variation in any other form.

	You need to set out all the new variations you are wanting to make by completing Item 5 of the Schedule. They must be clear and consistent with the terminology used in the existing agreement. When drafting the variations, please: • check to make sure that the same variations are made consistently throughout the entire agreement, especially if they appear in several different places. For example, if you have added an extra item to a budget, you will need to increase the total amount of funding and change the payment schedule appearing elsewhere; and • ensure you do not remove historical obligations when adding new ones. All past obligations must remain as part of the entire agreement. In short, the existing agreement as varied still needs to be a complete record of the entire agreement from when it was first entered into.
FAQs	Q. Can I just vary by letter instead of preparing a deed of variation? A. Generally speaking, you should not use a letter, unless the variation is minor. If you are uncertain, you should use a deed of variation. Q. Can I vary an agreement that has expired? A. No. An agreement cannot be varied once it has expired. For example, if you wish to allow more time for services to be provided by extending the life of the agreement, you can only do this if the agreement has not yet expired. If an agreement has already expired then you must enter into a new agreement. Q. Can I backdate a deed of variation? A. Generally speaking, it is not recommended that a variation be backdated and must be avoided. Q. Can I just delete the entire schedule of an existing agreement and replace it with a new one? A. Yes. If there are many changes being made to a schedule of an existing agreement, it may be preferable to delete that existing schedule in its entirety and replace it with a new one. Use 'Option 2' in Item 5 of the Schedule. Q. What sort of changes require review by internal lawyers? A. Variations to the actual terms and conditions must be reviewed by internal lawyers in Legal and Assurance Division, unless they are able to be pre-selected (i.e. clause bank clauses). Variations to schedules, grant details or the services requirements require no review by internal lawyers.



Australian Government
**Department of Health
and Aged Care**

DEED OF VARIATION



Parties

This Deed is between the Commonwealth and the Existing Party.

Recitals

- A. The Commonwealth and the Existing Party are parties to the Existing Agreement.
- B. The Parties now wish to vary the Existing Agreement in accordance with the terms and conditions of this Deed.

Operative Provisions

1. Definitions and Interpretation

1.1 Definitions

In this Deed, unless the contrary intention appears:

- Commonwealth** means the entity specified in Item 1;
- Deed** means this document and includes the Schedule and any other attachments;
- Effective Date** means the date specified in Item 4;
- Existing Agreement** means the existing agreement and the variations described in Item 3;
- Existing Party** means the entity specified in Item 2;
- Item** means an item forming part of the Schedule;
- Party** means a party to this Deed; and
- Schedule** means the schedule to this Deed.

1.2 Interpretation

In this Deed, unless the contrary intention appears:

- (a) capitalised words defined in the Existing Agreement have the same meaning when used in this Deed;
- (b) words in the singular include the plural and vice versa;
- (c) words importing a gender include any other gender;
- (d) another grammatical form of a defined word or expression has a corresponding meaning;
- (e) headings are inserted for convenience and do not affect the interpretation of this Deed;

- (f) a reference to the word 'including' in any form is not to be construed or interpreted as a word of limitation; and
- (g) a rule of construction will not apply to the disadvantage of a Party just because that Party was responsible for the preparation of this Deed or any part of it.

2. Variation to Existing Agreement

2.1 Variation

The Parties agree that on and from the Effective Date the Existing Agreement is varied as set out in Item 5.

3. Confirmation

3.1 Continuation of Existing Agreement

The Parties confirm and agree that the Existing Agreement, as amended by clause 2 of this Deed:

- (a) continues in full force and effect; and
- (b) is the entire agreement between the Parties in relation to its subject matter.

4. General

4.1 Counterparts

This Deed may be executed in any number of counterparts and the counterparts taken together constitute one and the same instrument.

4.2 Variation

This Deed may only be varied in writing signed by both Parties.

4.3 Waiver

A provision of, or a right created under, this Deed may not be waived except in writing signed by the Party to be bound.

4.4 Further steps

Each Party must, at its own cost and expense, promptly do all things reasonably required by the other Party to give full effect to this Deed and the matters contemplated by it.

4.5 Costs and stamp duty

- (a) Each Party must pay its own cost and expense arising out of the negotiation, preparation and execution of this Deed.
- (b) The Existing Party must pay all duties (including stamp duty and associated fines, penalties and interest) payable on this Deed and on any transaction or instrument executed under it.

4.6 Law and jurisdiction

This Deed is governed by and construed in accordance with the same laws that govern the Existing Agreement.

4.7 Severability

Any provision of this Deed which is wholly or partially illegal, void or unenforceable is severed from this Deed to the extent it is illegal, void or unenforceable. The validity or enforceability of the remaining provisions are not affected and continue in force.

4.8 Acting as trustee

If a Party acts as trustee of a trust in relation to this Deed:

- (a) it is liable both personally, and in its capacity as trustee of that trust; and
- (b) it represents and warrants (upon which the other Party relies) that it has full power and authority:
 - (i) to enter into this Deed and to be legally bound by it; and
 - (ii) to be able to comply with, and perform, all its obligations under it.

4.9 Inconsistency

If there is any conflict or inconsistency within this Deed, the following order of descending priority will apply:

- (a) the terms and conditions;
- (b) the Schedule;
- (c) any attachments or annexures to the Schedule; and
- (d) any documents incorporated by reference into this Deed.

Schedule – Deed Details

Item	Description	Details
1.	Commonwealth details	Legal entity name: Commonwealth of Australia as represented by the Department of Health and Aged Care ABN: 83 605 426 759 Physical address: [insert details] Postal address: [insert details] Contact person: [insert details] Email: [insert details]
2.	Existing Party details	Legal entity name: [insert details] ACN/ARBN/ICN: [insert details] ABN: [insert details] Physical address: [insert details] Postal address: [insert details] Contact person: [insert details] Email: [insert details]
3.	Existing Agreement	The agreement for [insert description] entered into between the Commonwealth and the Existing Party dated [insert date] as varied as follows: [List details and dates of each variation. If none, insert 'No variations'] 1. [insert the details and date, e.g. Deed of Variation No.1 dated] 2. [insert the details and date, e.g. Letter of Variation No.2 dated]
4.	Effective Date	The date this Deed is executed by the last Party to do so. [or insert a specific date and delete the sentence]
5.	Variations	[Note: The variations may be minor or extensive. If the variations are minor, you can list these individually by using Option 1. If the variations are extensive, you should use Option 2. OPTION 1 [Note: Choose this Option 1 for minor changes and complete, as required. Delete Option 2 and the Attachment A page.] The Existing Agreement is varied as follows:

Item	Description	Details
		(a) delete the following: [insert between inverted commas the deletion details] and replace with the following: [insert between inverted commas the new replacement details] (b) delete the following: [insert between inverted commas the deletion details] (c) insert the following: [insert between inverted commas the insertion details] [Note: You must clearly identify what you want changed, and state precisely how and where you want it changed, whether that means something is to be 'deleted and replaced' (use paragraph (a) above), only 'deleted' (use paragraph (b) above) or only added (use paragraph (c) above). Please choose the most applicable one(s)] [Note: Each change will have a separate paragraph. If there 2 deletions, then there will two separate paragraphs like paragraph (b) above, but with different numbering. Always make sure that each paragraph is numbered with a different letter, starting with '(a)', e.g. 5 paragraphs will be numbered (a) to (e).] [Note: Clause 1.2(a) of this Deed operates so that the definitions in the Existing Agreement also apply in this Deed. Check whether you are using the defined terms as used in the Existing Agreement. If so, the same terms must be capitalised when making individual changes above.] OR OPTION 2 [Note: Choose this Option 2 if extensive changes are required. You must use the Attachment A page and attach the latest version of the relevant document, with all the new changes made in it. The document must be up-to-date and consolidate all prior variations (if any). Delete Option 1.] The Existing Agreement is varied as follows: (a) delete [insert the deletion details e.g. 'the schedule'] and replace with [insert the replacement details e.g. 'the schedule'] as set out in the attachment marked 'Attachment A'.

Execution

Executed as a deed

SIGNED, SEALED AND DELIVERED for and on behalf of the Commonwealth of Australia as represented by the **Department of Health and Aged Care** ABN 83 605 426 759 by a duly authorised representative:

Name of authorised representative (print)

Name of witness (print)

Signature of authorised representative

Signature of witness

Date

[Note: Select the correct signature block for the relevant entity type of the Existing Party – see **Execution Guide for Signing Deeds**. The signature block below is a sample to be used only with companies registered under the *Corporations Act 2001* (Cth) that are not sole director companies.]

SIGNED SEALED AND DELIVERED by [INSERT NAME OF COMPANY] ABN [insert ABN] in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:

Name of Director (print)

Name of Director/Company Secretary (print)

Signature of Director

Signature of Director/Company Secretary

Date

Date

Attachment A

[Note: If you have chosen Option 2, you must use this Attachment A page and set out and reproduce the entire (amended) version below as part of this Deed. If you have chosen Option 1, you must delete this Attachment A page.]



Commitment Variation Minute

The form is set out so that minimal editing is required to the covering minute, with most content to be inserted into the attachments to facilitate completion of the right information.

All fields in grey must be completed (where applicable). Any suggested text/material/options that is not applicable should be deleted.

All fields in yellow are instructions for drafters.

To: Insert Delegate Name, Position Title, and Division

COMMITMENT APPROVAL TO VARY AN ARRANGEMENT WITH INSERT SUPPLIER NAME FOR INSERT PROCUREMENT TITLE

Procurement ID: Health/TRIM File Number

RECOMMENDATIONS:

APPROVE the variation of the existing contract with insert supplier name for the provision of [insert services], as detailed at Attachment X	APPROVED / NOT APPROVED
APPROVE additional expenditure of up to \$xxxx (GST Inclusive) for a new total contract value of \$xxxx (GST Inclusive) under Section 23(3) of the <i>Public Governance, Performance and Accountability Act</i> (delete if no additional expenditure is required)	APPROVED / NOT APPROVED
(if applicable) SIGN the Letter of Offer to insert supplier name.	SIGNED / PLEASE DISCUSS
NOTE the approved Value for Money assessment (Attachment X). APPROVE the Evaluation Report or Value for Money assessment (Attachment X) (delete whichever is not applicable)	NOTED / PLEASE DISCUSS APPROVED / NOT APPROVED
(if applicable) NOTE the Beyond Forward Estimates approval (Attachment X).	NOTED / PLEASE DISCUSS
CONFIRM the information provided in this commitment approval has fully addressed the Delegate's Checklist before exercising a delegation to approve the commitment of funds - PGPA Act Section 23 (3) - or enter into an arrangement - PGPA Act Section 23 (1). Delegates need to assure themselves that the procurement is compliant and documented (Attachment X).	CONFIRMED / PLEASE DISCUSS
NOTE the commitment variation will work-flow to you via SAP ESS for online approval.	NOTED / PLEASE DISCUSS
NOTE the Variation will be sent to insert supplier name for signature upon your approval of this minute.	NOTED/PLEASE DISCUSS

Prepared by:

Approved by:

.....

.....

Name	Delegate name
Position title	Position Title
Branch	Branch Division
Date	Date

Key Points:

- i. This proposal is consistent with the original contract and the requirements of the [Commonwealth Procurement Rules](#).
- ii. The proposed changes have been discussed and agreed in principle with the Supplier.
- iii. Any required AusTender reporting of the variation will take place within 42 days

1. BACKGROUND/CONTEXT

Your background should include:

- a reference to the original method of approach and expenditure approval (and attach original contract, and any other variations)
- a reference to the performance of the supplier to date
- a rationale for the variation
- confirmation that any additional tasks are within the scope of the originally approved approach and contract
- if this variation may compromise the initial procurement process
- whether this will transfer or create additional risk for either the department or the supplier
- what effect this will have on the procurement outcomes
- whether a variation is the most appropriate procurement method.

The Department entered into an agreement with <insert Supplier> for the <insert services> on <date of agreement> (PO 4500????) together with relevant expenditure to a maximum of \$???? (CA 60000????).

(details of previous variations – delete if not applicable, example below)

Variation 1 – Commitment

- increase in expenditure of \$???? (GST inclusive), was executed on <date>
- Re-specify the tasks of the project to provide additional clarity
- Allow for the timeframe to be extended from <date> to <date>.

This variation will:

- (outline what the new variation will provide)

2. OPTION TO EXTEND (DELETE IF NOT APPLICABLE)

The contract allows for [insert number] optional extensions of [insert months/years] duration, based on performance and at the Commonwealth's discretion. It is recommended to action this option to extend. This variation gives effect to the exercise of this option.

Delete either of the below statements which is not applicable.

A further valid extension option of xxx remains available within the contract.

OR

No further extension options are available under this contract.

Extension options must not be exercised without having first undertaken a review of the contractor's performance and/or deliverables in accordance with the contract.

3. OUTCOME OF EVALUATION / VALUE FOR MONEY

Insert summary of value for money assessment. *(Attach the approved VFM assessment).*

Where the value is to be increased, a value for money assessment must be undertaken and justified.

4. TIMEFRAME

The variation/extension will commence on execution and be completed by xxx. *(This will be the end date of the contract).*

5. CONTRACTUAL ARRANGEMENT

The appropriate form of contract variation has been prepared (**Attachment X**) based on insert contract template e.g. standing offer panel work order/official order, or Commonwealth Contracting Suite Commonwealth Contract / Department of Health and Aged Care Contract for Service/Consultancy Services.

Contract Manager

The nominated Contract Manager for this arrangement is insert name of Contract Manager, xxx Section, xxxx Branch. The nominated Contract Manager will monitor compliance with all aspects of the contract, in line with the updated [Contract Management Plan](#).

6. EXPENDITURE APPROVAL AND FUNDS AVAILABILITY

The cost to the Department for the services is increased by \$xxxx (GST Inclusive) for a new total contract value of \$xxxx (GST Exclusive), \$xxxx (GST Inclusive). This is within your delegation limit under the Accountable Authority [Financial Delegations](#) Schedule 1, Table 1, Item X, to approve proposals to commit relevant money up to \$xxx (Departmental/Administered/Special Accounts etc).

The Finance Business Partner has confirmed that funds will be made available from the nominated Departmental/Administered/Special Accounts etc. Cost Centre insert cost centre number.

If Beyond Forward Estimates applies, otherwise delete (Guidance: [Beyond Forward Estimates Approval](#))
Beyond Forward Estimates

As the duration of the expenditure proposal extends beyond the forward estimates period (current financial year plus four financial years out), a Beyond Forward Estimates approval has been completed and is provided at **Attachment X**. In addition, this commitment approval does not contain any contingent liabilities.

7. STAKEHOLDER CONSULTATION

Provide details of consultations with relevant business groups (e.g. FBP, PAS, Legal), other entities and stakeholders.

If no consultations sought, or intended, provide reasons why.

Endorsement by Procurement Advisory Services

The procurement process has been undertaken in accordance with the Department's Procurement Variation Process and the [Commonwealth Procurement Rules](#) (CPR). Procurement Advice Service (PAS) has provided endorsement to this document package (**Attachment X**).

8. GENERAL

Risk Management

The risk profile developed as part of the Procurement Plan has been reviewed. The risk profile remains Low/Medium/High. Any significant risks and mitigations identified will be advised to the delegate.

There are no conflict of interest issues that have been raised throughout the process.

(if required) Up-to-date Conflicts of Interest (COI) declarations are required each [insert frequency e.g. year, quarter or month] during the contract term. *Delete either of the following statements which is not applicable.*

All required, updated COIs have been received.

or

The supplier will provide updated COIs as part of this variation process.

Internal Reporting Requirements

Under the Department's Procurement Processing and Management policy, contract variations must be registered within 5 business days of execution.

External Reporting Requirements

The contract will be reported on the Department's website in accordance with the Senate Order requirements of July 2001 (Murray Motion). As the contract is valued over \$10,000 it will be reported on AusTender within 42 days of entering into the contract, in line with the Commonwealth Procurement Rules (Division 1, Item 7, Reporting arrangements).

Documentation

The documentation is held on TRIM File <insert TRIM No. i.e. PH18/1307>. All relevant documentation leading up to the contract has been filed in accordance with [Corporate Business Rule 2: Information Management and Record Keeping](#).

9. COMPLIANCE WITH FINANCIAL AND PROCUREMENT POLICIES

This procurement was conducted in accordance with the Department's financial and procurement policy framework ([Delegate's Checklist](#)).

Attachments:

- A. xxx
- B. xxx
- C. xxx

From: s47E(c) s47F
Sent: Tuesday, 6 February 2024 3:58 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: WEEKLY STATUS REPORT: TRANSITION OUT PROJECT [SEC=OFFICIAL]

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks s47E(c)
) 47F

Done! 😊 Added to the folder E24-50665 under E23-142394.

Some questions I had when reading through the status report. Maybe we can bring these up in the next MMA meeting:

- Why is the status red – its not clear if its due to some of the risks or if it is time slippage?
- There seems to be a WMoW website that is hosted by MMA and wont be transitioned? Would be good to understand NMoW position on not having this and impacts.
- The status notes all subcontractors agreements are executed (completed status under activities section) but s47G [REDACTED]
- Additional work noted by MMA around menu developments for NMoW. More clarity required on this, if it is within scope and if it's a dependency.

Regards,
 s47E
 ()

From: s47E(c) s47F
Sent: Tuesday, February 6, 2024 9:48 AM
To: s47E(c) s47F [REDACTED]
Cc: s47E(c) s47F [REDACTED]
Subject: WEEKLY STATUS REPORT: TRANSITION OUT PROJECT [SEC=OFFICIAL]

Hi team

Please see the weekly status report from MMA. s47E, can you please save a copy under E23-142394?
 Might need to create a new container for project documents

Kind regards

s47E(c) s47F
 Assistant Director – CHSP and Continence Policy Section

Home Support Operations Branch | Home and Residential Division | Ageing and Aged Care Group
 Australian Government, Department of Health and Aged Care
 T: 02 6289 s47E(c) s47F [REDACTED] [@health.gov.au](mailto:[REDACTED]@health.gov.au)

The Department of Health and Aged Care acknowledges First Nations peoples as the Traditional Owners of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to all Elders both past and present.



Confidentiality, Conflict of Interest, Privacy and Secrecy Deed Poll

For people who work for an Organisation that has an agreement with the Department

Background

- A. The Organisation contracts with the Department under the Agreement.
- B. I perform work for the Organisation and will be assisting in the performance of the Organisation's obligations under the Agreement.
- C. I provide the undertakings set out below in respect of my work under the Agreement.

Operative provisions

1. Definitions

In this deed:

Agreement means the document described in Item 3 of the Schedule.

Confidential Information means information that is:

- (a) by its nature confidential;
- (b) identified as confidential by the Department or the Organisation; or
- (c) information that I know or ought to know is confidential,

but does not include information that is or becomes public knowledge other than by breach of this deed or any other confidentiality obligation.

Conflict of Interest means any circumstance in which I have an interest (whether financial or non-financial) or an affiliation that is affecting, will affect, or could be perceived to affect, my ability to perform work associated with the Agreement, fairly and independently.

Department means the Commonwealth of Australia represented by the Department of Health and Aged Care ABN 83 605 426 759.

I means the person named in Item 1 of the Schedule.

Information includes Confidential Information, Personal Information and Secret Information.

Organisation means the entity described in Item 2 of the Schedule.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth).

Secret Information means information about an individual or organisation that is required to be kept secret by legislation administered by the Department (for example under the *Health Insurance Act 1973* (Cth) and the *National Health Act 1953* (Cth)).

2. Benefit of deed poll

I make this deed poll for the benefit of the Department and the Organisation.

3. Access to and disclosure of Information

I understand that:

- (a) in the course of performing work under the Agreement, I may receive or have access to Information, which I must protect from unauthorised use and disclosure;
- (b) I must not use or disclose the Information to any person except:
 - (i) in performance of the Agreement;
 - (ii) with the express written permission of the Department; or
 - (iii) where required by law or court order after notifying the Department;

- (c) if I disclose Information, I must make sure that any person with whom I share the Information has a “need to know” the Information and understands that the Information must be treated as confidential and that an offence could apply if the person further shares the Information; and
- (d) I must advise the Department and the Organisation immediately if I become aware of any unauthorised use or disclosure of the Information (including unauthorised access).

4. Deletion or delivery of Information

I acknowledge that:

- (a) the Department has obligations under the *Archives Act 1983* and that I must not delete the Department’s information unless in accordance with the Department’s policies; and
- (b) when requested by the Department or the Organisation, I must deliver or permanently and irreversibly delete, all Information in my possession or control using the methods and within the timeframes requested by the Department or the Organisation (whichever the case may be).

5. Declaring and managing Conflicts of Interest

- (a) I confirm that, to the best of my knowledge, as at the date of this deed, no Conflict of Interest exists or is likely to arise in my performance of the work associated with the Agreement except in relation to the Conflicts of Interest declared in Item 4 of the Schedule to this deed.
- (b) If a Conflict of Interest arises during the course of my work associated with the Agreement (whether directly or indirectly), or appears likely to arise, I understand that I must:
 - (i) immediately notify the Department in writing of the Conflict of Interest making a full disclosure of all relevant information relating to the Conflict of Interest; and
 - (ii) take such steps as the Department may reasonably require to resolve or otherwise deal with that Conflict of Interest.
- (c) I understand that I am required to complete and submit this deed annually to the Department for the duration of the period I am performing work under the Agreement.

6. Offence provisions

I understand that:

- (a) disclosure of the Information may be an offence under the *Crimes Act 1914* (Cth) and other laws; and
- (b) it is an offence under the *Criminal Code Act 1995* (Cth) to knowingly give false and misleading information to the Commonwealth or its officers or agents.

7. Indemnity

I agree to indemnify and hold harmless the Department and the Organisation against any claim, loss, liability or expense that the Department or Organisation reasonably incurs as a result of breach of this Deed poll.

8. Waiver

I understand that provisions of this deed may not be waived except in writing by the Department and / or the Organisation, whichever the case may be.

9. Survival

This deed will survive the termination, suspension or completion of the Agreement.

10. Applicable law

This deed will be governed by, and construed in accordance with, the law of the Australian Capital Territory.

Schedule – Deed Details

Item	Description	Details
1.	Details of person completing Deed Poll	Name: Physical address: Phone: Email:
2.	Organisation details	Legal entity name: CINCH Finance Pty Ltd ABN: 83 169 965 397
3.	Agreement	Title: Transition out project Purpose: All activities supporting Meals on Wheels services by Miles Morgan Australia are ceasing, with work needing to be undertaken to secure data and prevent service disruptions. Work also includes facilitating the transition of all remaining operations at the Whitehorse site to NMoW staff and volunteers. Program: Commonwealth Home Support Programme Date: 19 January 2024
4.	Conflict of Interest Declaration	I declare that I have the following Conflicts of Interest in relation to my work under the Agreement: <i>(Insert details below or insert 'Nil')</i>

Execution

EXECUTED as a deed poll

SIGNED, SEALED and DELIVERED by

Name (print)

Name of witness (print)

Signature

Signature of witness

Date

Date