



## Commonwealth Supplier Code of Conduct [Draft]

The Commonwealth expects its suppliers to conduct themselves with high standards of ethics such that they consistently act with integrity and accountability. Ethics is considered to encompass, at a minimum: honesty, integrity, probity, diligence and fairness. Ethical behaviour also extends to not making improper use of an individual's position or benefiting from practices which may be dishonest, unethical or unsafe. This should be demonstrated through suppliers' behaviour and actions and supported by appropriate governance arrangements.

The Commonwealth Supplier Code of Conduct (the Code) outlines the Commonwealth's minimum expectations of suppliers<sup>1</sup>, their personnel and their subcontractors while under contract with the Commonwealth<sup>2</sup>. The Code places a positive duty on suppliers to take proactive action to prevent and discourage breaches of the Code.

The Code is supported by provisions in request documentation and clauses in Commonwealth contracts [to be made available in ClauseBank].

Where requested by the Commonwealth, tenderers and suppliers must be able to demonstrate they have appropriate policies, frameworks, or similar, in place regarding ethics, governance and accountability to comply with these expectations. Failure to adhere to the Code may result in remedial action and/or termination in accordance with contractual provisions.

The inclusion of Code clauses and the extent of due diligence activities undertaken by a Commonwealth entity in relation to a supplier's adherence to the Code will be informed by the scale, scope and risk of the procurement.

The expectations outlined in the Code do not supersede or alter the supplier's legislative, policy, regulatory or other contractual obligations.

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<sup>1</sup> 'Supplier' is defined in the Commonwealth Procurement Rules as 'an entity or person who has entered into a contract with the Commonwealth' - <https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>. The term 'supplier' in the Code also includes the suppliers' personnel and its subcontractors.

<sup>2</sup> Commonwealth entities subject to the Commonwealth Procurement Rules - <https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>

## Expectations

### 1. Expectations of ethical behaviour

#### 1.1 Manage conflicts of interest and duty against Commonwealth contracts

Suppliers must have a robust process for managing conflicts of interest and duty, and supplier business activities must be free from unmanaged conflicts of interest and duty with Commonwealth contracts. Where actual, potential or perceived conflicts of interest and duty are identified, they must be declared, managed appropriately and immediately reported to the contracting entity.

#### 1.2 Uphold business integrity

Suppliers must conduct their business with integrity by acting honestly, responsibly, transparently, consistently and holding themselves accountable for their actions. Suppliers are expected to reflect their organisations communicated values and ethics in their actions and behaviours. Suppliers must not engage in conduct or misuse a position with the intention of obtaining an advantage for themselves or for another person, or cause, or seek to cause detriment to the Commonwealth or to any other person.

#### 1.3 Protect sensitive, privileged and confidential information

When accessing confidential Commonwealth information, suppliers must ensure they have appropriate systems and processes in place to protect the Commonwealth's confidential information and dispose of it appropriately. Suppliers must not use, or seek to use, information gained in connection to working with the Commonwealth for financial or non-financial gain or for any other purpose other than what the information was provided for. Suppliers must adhere to confidentiality agreements where these exist.

#### 1.4 Emulate the Australian Public Service (APS) Values

When a supplier is undertaking work on behalf of the Commonwealth, they must uphold similar values and behaviours to those expected of public officials in the APS Values. This is always important, but particularly relevant where a supplier interacts with, or provides services to, the Australian Public. The APS Values are published by the Australian Public Service Commission: <https://www.apsc.gov.au/working-aps/information-aps-employment/aps-values>

### 2. Expectations of corporate governance and business practices

#### 2.1 Demonstrate high standards of professional conduct and corporate citizenship

Suppliers must conduct themselves in a manner that is fair, professional and will not bring the Commonwealth into disrepute. Suppliers must exercise due care and responsibility and must not engage in any activities that are illegal, unsafe, exploitative, fraudulent, corrupt, collusive or otherwise unethical. Suppliers must comply with their competition law obligations and must not engage in collusive and/or anti-competitive conduct.

## **2.2 Manage risk**

Suppliers must develop and maintain appropriate processes to manage the risks associated with their operations. These include, but are not limited to, risks relating to labour and human rights, significant events, health and safety, the environment, security (including, for example, cyber security), ethics, corporate governance, and supply chain risks. Risks should generally be borne by the party best placed to manage them and suppliers should not inappropriately transfer risks, including down their supply chain.

## **2.3 Maintain appropriate records**

Suppliers should maintain detailed records that accurately record all financial transactions and information regarding their business activities, labour, health and safety and environmental practices in accordance with applicable laws, policies and procedures. Disclosure of information must be undertaken without falsification or misrepresentation. The supplier must make relevant records available to the contracting entity on request so that they can comply with record keeping and/or transparency obligations under Commonwealth law.

## **2.4 Meet taxation obligations**

Suppliers must comply with their tax obligations, by paying the right amount of tax in Australia and engaging with government authorities on taxation matters in a transparent, timely and complete way.

## **2.5 Make prompt payments**

Suppliers should reflect the Commonwealth's maximum payment times<sup>3</sup> in their contracts with subcontractors. Suppliers should also use reasonable endeavours to ensure their subcontractors reflect the same payment obligations within their contracts.

## **2.6 Undertake and cooperate with audits and assessments**

To ensure compliance with this Code, suppliers should perform periodic evaluations of their facilities and operations, and the facilities and operations of their subcontractors, and cooperate openly and honestly with any government audit, assessment or review.

## **2.7 Maintain sustainable business practices and minimise environmental impacts**

Suppliers must maintain environmentally responsible policies and practices and identify opportunities to incorporate sustainable environmental practices in their operations. This could include, but is not limited to: implementing circular economy activities including recycling; minimising the use of substances that may damage the environment and minimising waste; and implementing activities to support the net zero transition including reducing emissions, transitioning to renewable energy and reducing energy use.

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<sup>3</sup> Commonwealth Supplier Pay on Time or Pay Interest Policy - <https://www.finance.gov.au/publications/resource-management-guides/supplier-pay-time-or-pay-interest-policy-rmg-417>

### 3. Expectations of health, safety and employee welfare

#### 3.1 Manage workplace health, safety and security

Suppliers must comply with all applicable workplace health and safety laws and ensure they are providing healthy safe and secure work environments for their personnel.

#### 3.2 Act to prevent involuntary labour and human rights abuse

Suppliers must take all reasonable efforts to ensure that they, and organisations in their supply chain, are not engaged in, benefitting from or complicit with, human rights abuses such as coercion, involuntary and underage labour or modern slavery practice as defined in the *Modern Slavery Act 2018*. This includes undertaking risk assessments to identify the risk of human rights breaches, particularly in vulnerable industries.

#### 3.3 Act to prevent discrimination and harassment

Suppliers must not discriminate based on age, disability, ethnicity, gender, marital status, political affiliation, race, religion, sexual orientation, gender identity, union membership, or any other status protected by law, in hiring and other employment practices. Suppliers must also ensure their workplace is free from bullying and harassment and have processes in place to support the disclosure and management of such practices. Suppliers are expected to improve gender equality in the workplace and support a progressive and diverse work force.

#### 3.4 Respect employee rights

Suppliers are expected to respect the rights and entitlements of their personnel and comply with all relevant workplace legislation. This includes:

- ensuring that their personnel receive their entitlements on time including, but not limited to, wages, minimum wages, overtime, benefits, superannuation, leave, working hours and compensation; and
- allowing their personnel to form, join (or elect not to join) unions, industrial organisations and other worker collective associations of their choice, bargain collectively and engage in lawful industrial activity without hindrance or threat of retaliation.

#### 3.5 Respect Aboriginal and Torres Strait Islander peoples' rights

Suppliers are expected to respect the rights of Aboriginal and Torres Strait Islander peoples and engage with them where their business activities may impact them. Suppliers are also encouraged to consider using Aboriginal and Torres Strait Islander businesses when subcontracting to help stimulate Aboriginal and Torres Strait Islander entrepreneurship, business and economic development.