



Commonwealth Supplier Code of Conduct

The Commonwealth Supplier Code of Conduct (Code) outlines the Commonwealth's minimum expectations of suppliers¹ and their subcontractors while under contract with the Commonwealth. The Code applies to all Commonwealth contracts from 1 July 2024 and places a positive duty on suppliers to take proactive action to prevent and discourage breaches of the Code.

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 Code is supported by the Commonwealth Contracting Suite, ClauseBank and guidance published on the Department of Finance website.

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 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 suppliers' legislative, policy, regulatory, or other contractual obligations.

Suppliers are reminded that suspected breaches of the Code, that could constitute serious and systemic corrupt conduct will be notified to the **National Anti-Corruption Commission** (nacc.gov.au/reporting-and-investigating-corruption) as soon as reasonably practicable.

¹ 'Supplier' is defined in the **Commonwealth Procurement Rules** as 'an entity or person who has entered into a contract with the Commonwealth' – finance.gov.au/government/procurement/commonwealth-procurement-rules. The term 'Supplier' in the Code also includes the suppliers' personnel.

Expectations

1. Expectations of ethical behaviour

1.1 Declare and manage conflicts of interest in connection with Commonwealth contracts

The public should have confidence that Commonwealth Suppliers do not have conflicting interests with the public functions or services they are contracted to provide. Suppliers must have a robust process for declaring and managing conflicts of interest in connection with their engagement by the Commonwealth. Supplier business activities must be free from unmanaged conflicts of interest with Commonwealth contracts. In particular, suppliers should proactively manage conflicts arising from employees' previous engagement in the Commonwealth public sector. Where actual, potential, or perceived conflicts of interest are identified, they must be declared, managed, and recorded 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 to cause, or seek to cause, detriment to the Commonwealth or to any other person.

1.3 Protect sensitive, privileged and confidential information

When accessing Commonwealth information, suppliers must ensure they have appropriate systems and processes in place to protect the Commonwealth's 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: 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, free from bias and avoids bringing 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 reasonable 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 times² 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

Suppliers should perform periodic evaluations of their facilities and operations, and the facilities and operations of their subcontractors relevant to the contract, and cooperate openly and honestly with any government audit, assessment, or review.

2.7 Maintain sustainable business practices and minimise environmental impacts

Suppliers should 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.

3. Expectations of work health, safety and workplace rights

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.

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 causing, contributing to or directly linked to human rights abuses such as coercion, involuntary and underage labour or modern slavery practice³. This includes undertaking risk assessments to identify the risk of human rights breaches, particularly in vulnerable industries.

3.3 Act to prevent discrimination, harassment and support diversity

Suppliers must not discriminate⁴ based on age, disability, ethnicity, sex, marital status, political opinion, race, religion, sexual orientation, gender identity, union membership, or any other status protected by anti-discrimination law, in hiring and other employment practices. Suppliers should have processes in place to support the disclosure and management of bullying and harassment practices. Suppliers are encouraged to look for opportunities to improve gender equality in the workplace and support a diverse and inclusive workforce.

2 **Commonwealth Supplier Pay on Time or Pay Interest Policy** – finance.gov.au/publications/resource-management-guides/supplier-pay-time-or-pay-interest-policy-rmg-417.

3 **Terms defined in the Modern Slavery Act 2018** – legislation.gov.au/C2018A00153/latest/text.

4 'Discriminate' refers to discrimination which is unlawful or contrary to Commonwealth policy.

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 correct entitlements on time including, but not limited to, wages, penalty rates, overtime, allowances, superannuation, leave, and compensation; and
- respecting the rights to freedom of association for employees and contractors, particularly their rights to choose to do or not do any of the following: join unions or other industrial associations, collectively bargain, and engage in lawful industrial activities.

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 First Nations businesses when subcontracting to help stimulate First Nations entrepreneurship, business and economic development and should ensure partnerships with Aboriginal and Torres Strait Islander peoples are entered into with free, prior and informed consent and are fair, equitable and deliver genuine benefits to the First Nations party.

