

PROCUREMENT - ETHICAL CONDUCT**Ethical conduct of consulting firms****Issue**

What action is the Government taking to deter consultant misconduct?

Headline Response

The Department of Finance has taken a range of actions to address and strengthen the ethical conduct of consultants to government.

Facts and Figures

- The Government is committed to taking action to deter misconduct and strengthen the resilience of regulatory frameworks.
- The Australian Government expects that all suppliers to the Commonwealth abide by the highest ethical standard, and that officials monitor the ethical behaviour of suppliers throughout the life of a contract.
- The Department of Finance (Finance) released procurement guidance that Commonwealth entities should take into account the ethical conduct and performance of tenderers when undertaking value for money assessments, reflecting the Commonwealth Procurement Rules.
- To promote and enforce ethical conduct of organisations contracting with the Commonwealth, the Government introduced:
 - the Commonwealth Supplier Code of Conduct on 1 July 2024. This sets clear behavioural expectations and places a positive duty on suppliers to take proactive action to discourage breaches of the code.
 - the Notification of Significant Events clauses in standard Commonwealth contracts from May 2023. This creates a positive obligation for suppliers to notify the Commonwealth of significant events, including adverse comments or findings by legal or professional bodies.
- The second report for Senate Order 23F, on consultancy contracts over \$2 million, was recently tabled which included disclosure of whether there had been Code notifications.
 - No notifications under the Code have been received by the 23 entities that reported in-scope contracts for the period.
- The Government also implemented measures to strengthen the integrity of the tax system, increase the power of regulators and strengthen regulatory arrangements.

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- This included a review of the management of conflicts of interest and use of confidentiality arrangements across all Government agencies to ensure they are fit for purpose, legally binding, and enforceable.

PwC Australia

- The PwC matter raised serious concerns about ethical conduct and confidentiality. In response:
 - Finance directed PwC Australia to remove any staff involved in the confidentiality breach from contract work.
 - PwC Australia agreed with Finance not to bid for new Commonwealth work from April 2024 until 14 July 2025 to allow time for PwC Australia to implement reforms.
- Finance has concluded its examination of PwC Australia's ethical soundness following the implementation of reforms.
 - Finance has sought feedback from senators involved in the Senate Inquiry into the PwC matter, before it finalises and publishes the findings of its examination.
- Finance's review has considered parliamentary reports, independent reviews and PwC Australia's documents including:
 - Dr Ziggy Switkowski AO's Independent Review of Governance, Culture and Accountability;
 - PwC Australia's Commitments to Change: PwC Australia's response to the findings of the Switkowski Review;
 - PwC Australia's 2024 Annual Report; and
 - Independent Review of PwC Australia's Commitments to Change Action Plan by Webb Henderson.
- Finance has also engaged with, and sought advice, from other Commonwealth entities with active contracts with PwC Australia as well as from the Australian Federal Police and the Tax Practitioners Board. Finance has also met with PwC Australia on a regular basis, including with PwC Australia's appointed independent Board members and PwC's appointed independent monitor, Webb Henderson.
- Finance's examination has considered the changes made by PwC Australia to determine if PwC Australia in its current form is an appropriate supplier to Government in the future.
- Finance conducted examinations of Scyne and the-then PwC Indigenous Consulting (renamed to Yamagigu Consulting, now owned by Deloitte), and determined it appropriate for the Commonwealth to engage with both.

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Policy Commitments

- N/A

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Background

Parliamentary Inquiries

On 12 June 2024, the Senate Finance and Public Administration References Committee released its final report – Inquiry into management and assurance of integrity by consulting services.

On 7 November 2024, the Parliamentary Joint Committee on Corporations and Finance services released its final report – Inquiry into ethics and professional accountability in the audit, assurance and consultancy industry.

Commonwealth Supplier Code of Conduct

The Code is mandated through the Commonwealth Procurement Rules (CPRs). Entities subject to the CPRs are required to include Code clauses in all Commonwealth forms of contracts from 1 July 2024, with limited exceptions.

The Code places a positive duty on suppliers to proactively prevent misconduct. There are three categories of expectations:

- ethical behaviour
- corporate governance and business practices
- health, safety and employee welfare.

Notification of Significant Events

The clauses require the supplier to notify the contract manager where certain events occur. Finance only receives notifications relating to the contracts it manages, including Whole of Government panel arrangements, and does not have a consolidated list of notifications.

Examination of the ethical soundness of PwC Australia

On 23 January 2023, it was reported that PwC had breached confidentiality provisions when providing taxation advice for Treasury.

On 8 November 2023, PwC Australia divested its state and federal government business to Allegro Funds, creating a new entity, Scyne.

On 30 April 2024, Finance released a procurement policy note outlining the details of an agreement where PwC Australia would not bid for Commonwealth work until 1 December 2024.

- Further procurement policy notes were published on 19 November 2024 extending the agreement until 30 June 2025, and another on 27 June 2025 extending this agreement until 14 June 2025.

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Embargoed copies of Finance's examination were made available to Senators Colbeck, O'Neill and Pocock on Thursday, 24 July 2024. An offer to accept feedback was extended to the Senators on Friday, 25 July 2025. Finance is continuing to consult with the Treasury and Tax Practitioners Board.

The Guardian and the Weekend Australian have reported on the imminent release of Finance's examination and ongoing consultation.

Senate Order 23F – Consulting Services – Biannual Statement

Senate Order 23F was agreed on 3 July 2024 in response to recommendation 12 of the Finance and Public Administration References Committee's final report on its inquiry into management and assurance of integrity by consulting services. The first report, tabled in January 2025, reported that no notifications under the Code had been received by the 22 entities that reported in-scope contracts for the period.