

## Frequently Asked Questions for Suppliers Supplier Code of Conduct

### 1. Why does the Victorian State Government (the State) need the Supplier Code of Conduct (the Code)?

The State is committed to ethical, sustainable and socially responsible procurement.

The State views its suppliers as partners and cares about the way they do business when providing goods or services to, or on behalf of, the State. The Code outlines ethical standards in behaviour that suppliers, as partners, must aspire to meet when conducting business with the State (*refer to the Code for more information*).

### 2. How does the Code work?

The Code applies to all contracts, agreements and purchase orders from 1 July 2017 and requires suppliers to acknowledge the minimum standards of behaviour when conducting business with the State.

Contracts and agreements will require suppliers to sign a commitment letter acknowledging the State's minimum expectations and confirming they will aspire to meet these expectations. The commitment letter will be incorporated into the invitation to supply documentation and will form a compulsory part of the supplier's submission.

Low value, low risk, intermittent purchase order procurements will have the terms and conditions amended by the State to reflect the suppliers' acknowledgement and commitment to the Code, eliminating the requirement for a separate commitment letter.

Existing contracted suppliers will be made aware of the State's expectations under the Code through receipt of a standard letter. Some suppliers may be required to sign and return a commitment letter as part of the contract management review process (subject to a risk-based approach, as determined by the contract manager).

### 3. Does the Code apply to all procurement?

Yes. The Code applies to procurement of all goods and services, including construction works and services across the general government sector.

### 4. Is there a financial threshold that the Code applies to?

No. The Code applies to all general government sector procurement for the supply of goods and services, including construction works and services regardless of the dollar value. However, purchase order terms and conditions may need to be amended by an organisation to reflect the suppliers' acknowledgement and commitment to the Code, eliminating the administrative requirement for commitment letters for low value, intermittent purchases.

### 5. Do existing Suppliers with active contracts and purchase orders prior to 1 July 2017 need to aspire to meet the Code?

Yes. The Code applies to suppliers with active contracts, orders and agreements that were entered into prior to 1 July 2017. Existing contracted suppliers will be made aware of the State's expectations under the Code through receipt of a standard letter. Some suppliers may be required to sign and return a commitment letter as part of the contract management review process (subject to a risk-based approach as determined by the contract manager).

**6. Does the Code apply to subcontractors?**

Yes. Suppliers are obligated to communicate the Code to their related entities, suppliers and subcontractors who support them in supplying goods and services to the State. This will ensure that subcontractors conduct their business in accordance with the Code.

**7. What is the expectation when products or inputs are acquired from other countries which have different laws or standards to those we have?**

The Code recognises that suppliers may operate and provide goods and services from different jurisdictions. Where the Code refers to the law, it means the law(s) in the jurisdiction where the goods and services are procured. Fundamental to the Code, is the expectation that all suppliers operate in full compliance with all laws, rules and regulations of the jurisdictions in which they do business.

**8. What is the corrective action process?**

Suppliers are expected to self-assess their compliance with the Code and are encouraged to raise concerns or seek clarification on any elements of the Code with their relevant contract manager (*refer to the Code for guidance on additional reporting options*).

If requested by the State, suppliers must provide evidence and confirmation of their compliance with the Code, including providing documents and records that support compliance.

**9. What support will the State provide to suppliers in relation to the Code?**

The Code requires minimal administrative changes by suppliers and will strengthen the integrity of their business through the establishment of standards for ethical, sustainable and socially responsible business practice. The State is providing guidance material and information that suppliers can use to operationalise the Code (*see [procurement.vic.gov.au](http://procurement.vic.gov.au) for more information*).

Suppliers are also encouraged to raise any concerns and seek clarification from their relevant contract manager.

**10. What happens if a supplier fails to aspire to meet the Code?**

Failure to aspire to meet the Code will be treated in the same way as any other contract deviation. In this instance, the contract manager will work with the supplier and seek to rectify the issue as soon as practicable.

**11. What if a supplier reports an issue in relation to meeting the Code at the tender stage?**

The Code's commitment letter must be completed for a supplier's tender submission to be considered. Provided that the commitment letter has been completed, the State will review the issue raised by the supplier and assess what impact it will have on the tender response for the future supply of a good or service. Any issue will need to be considered on a case-by-case basis subject to a risk-based approach.

**12. What happens if a supplier fails to lodge a commitment letter aspiring to meet the Code in a tender submission?**

Failure by a tenderer to return the completed commitment letter means the tender submission is incomplete. Return of the Code commitment letter is compulsory and forms part of the tender submission. For a supplier's tender submission to be considered, the Code commitment letter must be completed and returned.

**13. What if a supplier reports an issue with meeting the standards of the Code after the contract is awarded?**

Failure to aspire to meet the Code will be treated in the same way as any other contract deviation. In this instance, the contract manager will work with the supplier and seek to rectify the issue as soon as practicable.

If the issue cannot be rectified, the deviation will be escalated in accordance with the contract manager's contract issue resolution processes.

**14. What action can the State take if it has reason to believe that a contracted supplier who has signed a commitment letter is not meeting the Code?**

Any suspected deviation from the minimum standards of behaviour outlined in the Code, should be treated the same way as any other issue under contract. The contract manager will raise the concern with the supplier and ask them to address the concern.

The supplier may be requested to provide evidence such documents and records confirming their compliance with Code. If a deviation from the Code is confirmed, the contract manager will work with the supplier and seek to rectify the issue. If the issue cannot be rectified, it may need to be escalated in accordance with the contract issue resolution processes.

**15. Is there an adjustment period, or will a supplier be terminated if they don't commit to the Code?**

The Code applies to all general government sector procurement for the supply of goods and services, including construction works and services from 1 July 2017. There will be no adjustment period as the Code is consistent with current legislative requirements.

Suppliers are encouraged to raise any concerns and seek clarification from their relevant contract manager.

**16. Will suppliers on a State Purchase Contract (SPC) arrangement need to sign the commitment letter?**

Existing contracted suppliers will be made aware of the State's expectations under the Code through receipt of a standard letter from the relevant contract manager relating to the goods, services or construction works and services they are providing.

Some suppliers may be required to sign and return a commitment letter as part of the contract management review process (subject to a risk-based approach, as determined by the contract manager).

All new SPCs will require suppliers to sign a commitment letter acknowledging the State's minimum expectations and confirming they will aspire to meet these expectations. The commitment letter will be incorporated into the invitation to supply documentation and will form a compulsory part of the supplier's submission.

**17. Will suppliers on the Construction Supplier Register need to sign a commitment letter?**

Yes. Contract managers of prequalification registers will be seeking to obtain commitment letters from existing prequalified suppliers and will make it a condition of new applicants for registration.

Suppliers responding to bids from one of the prequalification registers will generally not need to sign a separate commitment letters each time they respond to a buyer's request.

**18. Where do I report instances of supplier misconduct?**

If a supplier considers another supplier has deviated from or breached their obligations under the Code or that a State employee has breached the Victorian Public Sector Code (VPS Code), it is expected that you report these concerns to one of the following bodies:

- a. in relation to other suppliers, the relevant department Chief Procurement Officer , or equivalent; and
- b. in relation to State personnel breaching VPS Code, the relevant public body head or the Independent Broad-based Anti-corruption Commission.

*(See the Supplier Code of Conduct for more information on reporting instances of misconduct).*

**19. Is there additional reporting required in relation to the Code?**

No. At this stage the Code has no reporting requirements. However, if the State has reason to believe that a contracted supplier is not meeting the Code, suppliers must provide evidence and confirmation of their compliance with the Code, including providing documents and records that support compliance.

**Using this Frequently Asked Questions (FAQs)**

This supplier FAQs accompanies the Supplier Code of Conduct (the Code) and the Code Suppliers fact sheet.

For more information on the Supplier Code of Conduct, visit the Procurement Victoria website at [procurement.vic.gov.au](http://procurement.vic.gov.au)