



Australian Government
Department of Education and Training

Code of Conduct in Contracting

Opportunity through learning

Code of Conduct in Contracting

This Code provides a framework for relationships between the Department of Education and Training (the department) and people who do business with the department ('business partners').

The department expects that:

- its staff will observe this Code;
- its business partners will observe this Code; and
- anyone conducting business with the department will maintain relationships based on trust which will stand up to public scrutiny.

This Code enables the department's business partners to promote their interests knowing that they will be treated honestly and with integrity by the department. The department's business partners can expect a professional relationship with the department. They can also expect prompt and proper handling of any business issues that may arise.

Businesses can be assured that the department will expect their competitors and sub-contractors to behave according to the same rules.

If there is an apparent conflict between the operation of this Code and a formal arrangement such as a signed agreement, contract or request for tender then the terms of the formal arrangement will take precedence.

This Code recognises that all departmental staff must observe the Australian Public Service (APS) Code of Conduct, APS Values and Employment Principles.

Issues with this Code of Conduct

Departmental staff or business partners who have any issues with this code of conduct should contact:

Procurement and Grants Support Team
Shared Services Centre
Department of Education and Training
GPO Box 9880
Canberra City ACT 2601

Email: procurement@ssc.gov.au

Code of Conduct in Contracting – Summary Table

The department requires its Staff to:	The department expects that its Business Partners will:
<ul style="list-style-type: none">• seek value for money for the taxpayer;• be open and fair in business dealings, subject to confidentiality, security and privacy considerations;• respond promptly to reasonable requests for advice and information;• avoid and/or declare situations where private interests conflict with public duty;• deal honestly with suppliers and be timely in paying accounts;• not solicit or accept money or other benefits from organisations seeking or having business relationship with the department; and• comply with the APS Code of Conduct and apply the APS Values and Employment Principles in the performance of their duties	<ul style="list-style-type: none">• deliver value for money;• avoid collusive practices;• protect Commonwealth material;• comply with any specific security provisions in the terms of the contract, where applicable;• respond promptly to reasonable requests from the department or its clients for advice and information;• disclose real or apparent conflicts of interests• deal honestly with the department and comply with contractual conditions;• not make offers to departmental employees of money or other benefits; and• in dealings with the department’s clients, behave in a highly ethical manner.

Specific Guidance

Particular situations in which the department and its business partners should exercise care include:

A. Gifts and Hospitality

Staff must not improperly use their position to gain a benefit, gift or hospitality.

Staff can only accept a benefit, gift or hospitality subject to complying with the department’s procedures.

Hospitality can include presentations, demonstrations, briefings and discussions, accompanied by breakfast, lunch or dinner. Travel and accommodation are generally not included as part of hospitality and are covered at Section B of this Code.

Departmental staff are usually not entitled to use Government funds for hospitality. Approval is handled on a case-by-case basis and must be obtained in advance in accordance with the Secretary’s Instructions.

Social contact with tenderer should be avoided during the period of a tender. Offers of hospitality and entertainment will not be accepted by departmental staff during these times.

B. Travel and Accommodation

Usually, the department provides for the business travel and accommodation requirements of its staff. A business may only provide travel and accommodation for departmental staff in circumstances directly related to the joint business of the two parties and where the arrangement could not be seen as creating a conflict of interest for departmental staff.

Any offer by a business to pay for departmental staff to visit and view its products or services should only be accepted if there is approval by appropriate departmental senior management.

C. Conflicts of Interest

Sometimes the department and its business partners will need to work out ways of identifying and resolving real or perceived conflicts of interest.

Departmental staff should ensure that in all dealings with businesses their actions can be publicly scrutinised without the need for elaborate justification.

In such dealings a real or perceived conflict of interest may arise between an employee's private interests and that employee's duty to the department.

Examples of such conflicts include the ownership by a departmental employee of shares in a company competing for the department's business, the unauthorised disclosure or personal use of any information which would result in insider trading, or a departmental employee engaging in dealings with the business partner that may benefit a member of the employee's family.

In cases like this, whether the conflict can be avoided or not, departmental staff should declare it promptly in writing to their supervisor. Normally, such a staff member would be excluded from any duty that could be seen to give rise to a conflict of interest.

D. Information Management

Contracts with the department provide specific guidance on the identification and treatment of confidential information, personal information and Freedom of Information requirements. This information will be classified by the department in accordance with the Protective Security Policy Framework (PSPF).

Information exchanged between the department and its business partners is frequently given 'in-confidence'. As stated in the contracts, such information may be disclosed where there is a legal requirement to do so. For the department this may include the requirement to disclose information to Parliament or its Committees.

The department and businesses must not allow confidential information to be made known to anyone who has no right to it.

Competing companies are never to be given another company's information in regard to performance specifications nor any aspects of pricing, quotation, tender, bid, nor any other commercial or proprietary information.

E. Access to documents

The *Freedom of Information Act 1982* (Cth) requires contractors, who enter into Commonwealth contracts, where:

- services are to be provided by another party for or on behalf of an agency;
- to a person who is not the Commonwealth or an agency, i.e. to the community; and/or
- the services are in connection with performance of the functions of the agency or the exercise of powers;

to provide documents on written notice from the department at any time after the FOI access request has been received.

A contractor who engages any sub-contractor to assist in performance of the contract must include provisions to allow the contractor to meet its obligations to the department.

The contractor bears the cost of complying with the obligation to produce the documents. If the contractor does not comply with the contractual obligation, it would be open to the department to take the action it considers appropriate for breach of the contract, depending on how seriously it regards the non-compliance.

The contractor's obligation to comply with the department's notice is not limited to a contract under which services are still being provided.

Security Issues

For information about departmental security, please contact:

Agency Security Advisor
Department of Education and Training
GPO Box 9880
Canberra City ACT 2601
Loc: C50MA6

Email: protectivesecurity@education.gov.au

Tel: (02) 6240 6871

Business Partners, Fraud and the Criminal Code

Anyone providing services for the department may be considered to be a Commonwealth officer for the purposes of the Criminal Code. This includes staff, agents or sub-contractors of the department's business partners. To help prevent fraud and breaches of the Criminal Code our standard contracts warn about offences that can apply.

Fraud Prevention and Investigations

The Fraud Prevention and Investigations team is responsible for investigating allegations of criminal fraud on the department's programmes.

All departmental staff and business partners have a role to play in the prevention, detection and reporting of suspected fraud, and accordingly must report suspected fraud in the department and its programmes. This responsibility is mandated through the Commonwealth's Fraud Control Framework and communicated through the department's Fraud Control Plan.

The department maintains a dedicated electronic mailbox for the reporting of fraud and will receive and respond to allegations delivered to fraud@education.gov.au.

Document change history

Version/Date	Summary of change	Authorised by
Version 1, August 2014	Initial release (updated from the former DEEWR Code of Conduct in Contracting)	Schools, Youth, Child Care and Corporate Legal Branch
Version 2, March 2017	Updates to reflect MoG changes.	Schools, Child Care and Corporate Legal Branch