

Supplier code of conduct clause

HSV Purchasing Policy 4. Contract management and asset disposal

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Disclaimer

The information presented in this document is general in nature and based on HealthShare Victoria's interpretation of the *Health Services Act 1988* (Vic) and any ancillary legislation and regulations in effect at the time and should not be relied upon as legal advice. Please consider seeking professional and independent advice from your legal representative as to the applicability and suitability of this information and the legislation to your own business needs or circumstances.

Invitation to supply document clause

Add the following clause (or similar) into an appropriate place in the ITS (tender) documentation

Application of Supplier Code of Conduct

- a. The Supplier Code of Conduct (the Code) sets mandatory minimum standards that Suppliers must achieve to establish and maintain a business relationship with Victorian public entities.
- b. The action of submitting an offer or signing a contract with the Purchaser indicates that the Respondent agrees to meet the standards set out in the Code and to comply with the provisions relating to implementing and enforcing the Code.
- c. Further information can be found at: <https://www.buyingfor.vic.gov.au/supplier-code-conduct>.
- d. In assessing the Supplier's response, the Purchaser may obtain, and take into consideration, information about the Supplier's current and prior compliance with the Supplier Code of Conduct, and any similar obligations to any agency or government.

Contract agreement clause

Add the following clauses (or similar) into an appropriate place in the Agreement.

1 SUPPLIER CODE OF CONDUCT

1.1 Code Compliance

- a. The Supplier acknowledges that the Supplier Code of Conduct as amended from time to time applies to the Agreement and undertakes that during the Term it will comply with the Supplier Code of Conduct and all obligations under this clause (1). The Supplier Code of Conduct (as amended from time to time) is available at the Buying for Victoria website: <https://www.buyingfor.vic.gov.au/supplier-code-conduct>.
- b. The Supplier must:
 - i. establish all necessary policies and systems to monitor compliance by the Supplier with the Supplier Code of Conduct; and
 - ii. monitor its compliance with the Supplier Code of Conduct on a regular basis throughout the Term of the Agreement in accordance with the policies and systems established under paragraph (b)(i).
- c. The Supplier must promptly provide any information requested by the Purchaser related to:
 - i. the compliance by the Supplier with the Supplier Code of Conduct; and
 - ii. any policies or systems established to monitor the compliance by the Supplier with the Supplier Code of Conduct
- d. The Supplier must ensure that its Personnel engaged in the performance of the Agreement:
 - i. comply with paragraphs (a) and (b)(ii) as though those requirements apply directly to them;
 - ii. provide to the Supplier, on request by the Purchaser, a declaration of their compliance with the Supplier Code of Conduct, and with any policies or systems established to monitor the compliance by the Supplier with the Supplier Code of Conduct in the form required by the Purchaser from time to time; and
 - iii. who have, or are suspected of having, breached the Supplier Code of Conduct do not remain engaged in the performance of the Agreement and return, or where directed by the Purchaser, destroy all of the Purchaser's Confidential Information in their possession, custody or control.
- e. The term '**Code Compliance Event**' under this clause 1 means a failure to comply with this clause.

1.2 Code Investigations

- a. The Supplier agrees that:
- b. the Purchaser may from time-to-time conduct an investigation into the character, integrity, honesty or other aspects of compliance with the Supplier Code of Conduct of the Supplier or any of its Personnel ('**Code Investigation**'), which may include:
- c. investigations into commercial structure and ownership, business and credit history, prior contract compliance or any criminal records or pending charges; and

- d. interviews of any person or research into any activity that is or might reasonably be expected to be the subject of criminal or other regulatory investigation; and
- e. if the Purchaser requests in writing that the Supplier or a third party nominated by the Purchaser must carry out the Code Investigation, the Supplier must carry out, or have carried out as requested, the investigation and provide a full report to the Purchaser; and
- f. the Supplier must procure all relevant consent from people who will be the subject of a Code Investigation.

1.3 Notice – Code Compliance Event

- a. The Supplier must immediately notify the Purchaser in writing on becoming aware that a Code Compliance Event has occurred or is likely to have occurred, describing the circumstances giving rise to the actual or likely occurrence of the Code Compliance Event, when it occurred or is likely to have occurred and any of the Supplier's Personnel involved.
- b. Upon delivery of a notice under paragraph (a) or if the Purchaser otherwise becomes aware of a Code Compliance Event or likely Code Compliance Event, without prejudice to any other rights the Purchaser may have in relation to the Code Compliance Event, then:
 - i. the Supplier must take any action directed by the Purchaser to remedy or otherwise address the Code Compliance Event;
 - ii. without limiting paragraph (b)(i), the Purchaser and the Supplier must meet within five (5) Business Days and use reasonable endeavours to agree a course of action that will be taken by the Supplier to remedy the Code Compliance Event (including timing) and to ensure that it does not reoccur; and
 - iii. the Supplier must comply with any agreement made under paragraph (b)(ii) and provide any reports or other information about the Supplier's progress in implementing any agreement made under paragraph (b)(ii) as may reasonably be requested by the Purchaser from time to time.

Notice – Code Compliance Event

- a. The occurrence of a Code Compliance Event or a breach of the above Notice – Compliance Event clause will constitute a material breach of the Agreement, and the Purchaser may, without prejudice to other remedies under the Agreement, in its sole and absolute discretion suspend or terminate the Agreement, immediately by written notice to the Supplier, upon receipt of which the Supplier must immediately cease all work under the Agreement.
- b. The Supplier acknowledges that a failure to comply with this [clause 1] may be considered by the Purchaser and other Victorian public entities in any future approach to market or their respective procurement processes, and that such information may be shared with those Victorian public entities as detailed in cl [insert relevant cross reference].
- c. The reasonable costs incurred by the Purchaser in connection with this clause will be a debt due and payable by the Supplier to the Purchaser on demand.
- d. The Supplier will comply with its obligations under this clause at its cost and without any additional charge to the Purchaser.

Purchase order terms and conditions clause

Add the following clause (or similar) into an appropriate place in the terms and conditions of purchase order documents used for low value or intermittent works/goods/services ordered without contract agreements.

Supplier Code of Conduct

- a. The Supplier acknowledges that the Supplier Code of Conduct (the Code) (available at <https://www.buyingfor.vic.gov.au/supplier-code-conduct>) applies to these terms and conditions and undertakes that in supplying goods or services to the Purchaser by way of a purchase order, that it will comply with the Code (as amended from time to time).
- b. The Supplier acknowledges that it has read and understood the Code.
- c. The Supplier must, in complying with the Code,
- d. establish all necessary policies and systems to monitor its compliance with the Code; and
- e. monitor its compliance with the Code on a regular basis; and

- f. promptly provide the Purchaser with any information requested related to its compliance with the Code and any policies or systems established to monitor compliance with the Code.
- g. The Supplier must immediately notify the Purchaser in writing on becoming aware of its non-compliance or likely non-compliance with the Code (Compliance Event). The Supplier agrees that a Compliance Event or breach of the Code will constitute a material breach of these terms and conditions.

More information

Related documents and templates are available on the [HSV website](#).