**Handling issues of possible non-compliance with the Supplier Code of Conduct – Process Guide for Government Buyers**

**Introduction**

General information on the Victorian Government’s Supplier Code of Conduct (the Code) can be found at: <https://buyingfor.vic.gov.au/supplier-code-conduct>

This document sets out a process that government buyers can use to implement the Code and act upon any compliance issues.

**Code implementation**

A commitment letter enables buyers to incorporate adherence to the Supplier Code of Conduct into invitation to supply documentation and forms a compulsory part of a supplier’s response. A template is included in the Supplier Code of Conduct [toolkit](http://www.procurement.vic.gov.au/Buyers/Supplier-Code-of-Conduct) for buyers.

Buyer and Supplier fact sheets, available [here](http://www.procurement.vic.gov.au/Buyers/Supplier-Code-of-Conduct), emphasize that during a supplier’s engagement with a Victorian government department or agency, the supplier is 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 the relevant contract manager as part of their contract engagement arrangements.

**Concerns arising about Code compliance**

Questions or concerns about a supplier’s compliance with the Code can arise through various channels:

* a supplier may self-report a possible non-compliance issue OR;
* a contract manager may identify issues through observing the supplier’s behaviour OR;
* another party such as a complainant, whistle-blower, media reporter, a supplier competitor or a subcontractor from the supplier’s supply chain may identify and report potential issues.

Responding to concerns is the responsibility of the government department or agency undertaking the procurement or with whom the supplier has the contract for provision of the goods or services in which a possible non-compliance issue/s has been identified.

Where an issue/s has not been identified in the context of the supplier’s meeting of a specific contract’s obligation/s and relates more to a supplier’s general compliance with the Code in the marketplace, responsibility for further investigation of compliance will lie with the government department or agency with whom the issue has been raised.

For further advice contact:

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**Investigating concerns**

The following internal processes could be adopted by departments and agencies to handle questions or concerns about a supplier’s compliance with the Code:

1. Identify a primary contact person for oversight of the Code (such as the Chief Procurement Officer who is likely to already have oversight of supplier complaints) and communicate this contact point on intranets and via other appropriate channels.
2. Request that questions or concerns be documented / submitted in writing.
3. Have clearly stated assessment criteria to determine the seriousness and urgency of any issue/s identified along with escalation steps – these criteria and escalation steps should be communicated on intranets and via other appropriate channels with a department or agency.
4. Seek internal legal advice on matters raised, proposed investigation arrangements and any proposed actions with a supplier should non-compliance be confirmed.
5. Undertake timely investigation to obtain information using a relevant parties and tools e.g. subject matter expert / legal / probity / audit / site visits / reviews.
6. If requested by the State, suppliers must provide evidence and confirmation of their compliance with the Code, including the provision of documents and records that support their compliance.
7. Present written findings and recommendations to appropriate level of management within department or agency.
8. Agree on any actions to be implemented with the supplier.
9. If significant action is involved, the Department or Agency Head, and the relevant Minister may need to be briefed.

**Corrective action**

There is a range of potential corrective action open to departments and agencies to address confirmed Code non-compliance.

Implementation of any action **should only occur after** discussion with internal legal services (or external where necessary) and with appropriate management review in a department or agency.

Actions may include but not be limited to any of following:

* Require a supplier to implement behaviour change and confirm implementation in writing;
* Require a supplier to implement behaviour change and provide evidence of this – either in writing or via an on-site inspection by department or agency representatives;
* Require specific action to be taken by a supplier and evidenced by a specified date; OR
* Terminate a contract – timing to be in accordance with terms in contract, and access for buyer to an alternative, replacement supplier.