



Australian Government

**Department of Education, Employment
and Workplace Relations**

**Code of Conduct
in Contracting**

DEEWR Code of Conduct in Contracting

This Code provides a framework for relationships between DEEWR and people who do business with DEEWR ('business partners').

DEEWR expects that:

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

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

Businesses can be assured that DEEWR 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 DEEWR staff must observe the Australian Public Service (APS) Code of Conduct and APS Values.

Issues with this Code of Conduct

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

Procurement and Grant Policy and Services Branch

Loc: C14MT2

DEEWR

GPO Box 9880

Canberra City ACT 2601

Email: pgcmhelpdesk@deewr.gov.au

Code of Conduct in Contracting – Summary table

DEEWR Requires its Staff to:	DEEWR 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 commercial-in-confidence, 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 DEEWR; and • comply with the APS Code of Conduct and apply the APS Values 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 DEEWR or its clients for advice and information; • disclose real or apparent conflicts of interests • deal honestly with DEEWR and comply with contractual conditions; • not make offers to DEEWR employees of money or other benefits; • in dealings with DEEWR clients, behave in a highly ethical manner.

Specific Guidance

Particular situations in which DEEWR 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.

DEEWR 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 Chief Executive'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 DEEWR staff during these times.

B. Travel and Accommodation

Usually, DEEWR provides for the business travel and accommodation requirements of its staff. A business may only provide travel and accommodation for DEEWR 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 DEEWR staff.

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

C. Conflicts of Interest

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

DEEWR 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 DEEWR.

Examples of such conflicts include the ownership by a DEEWR employee of shares in a company competing for DEEWR business, the unauthorised disclosure or personal use of any information which would result in insider trading, or a DEEWR 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, DEEWR 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. Commercial-in-Confidence

Contracts with DEEWR provide specific guidance on the identification and treatment of confidential material, personal information and Freedom of Information requirements.

Information exchanged between DEEWR 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 DEEWR this may include the requirement to disclose information to Parliament or its Committees.

DEEWR and businesses must not allow 'commercial-in-confidence' 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

From 1 November 2010 the *FOI Amendment (Reform) Act 2010* 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
- 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 DEEWR 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 DEEWR.

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 DEEWR 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 DEEWR notice is not limited to a contract under which services are still being provided. When settling the terms of a contract, DEEWR should consider what obligations are placed on contractors to retain records for audit or other purposes. Procurement guidance provided by the Australian National Audit Office (ANAO) requires a contractor to retain, and require its subcontractors to retain, all relevant books and records for seven years after the end of the contract.

Security Issues

For information about DEEWR security, please contact:

Agency Security Advisor
DEEWR
GPO Box 9880
Canberra ACT 2601

Email: SecurityAdmin@DEEWR.gov.au
Tel: (02) 6240 6969

Business Partners, Fraud and the Criminal Code

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

DEEWR Investigations Branch

DEEWR staff and business partners must report suspected frauds on the department and its programs. Investigations Branch maintains a dedicated electronic mailbox for this purpose and will receive and respond to allegations delivered to fraud@deewr.gov.au