

# Statement of Business Ethics

This Statement of Business Ethics (Statement) provides guidelines on what is expected when conducting business with the Department of Communities and Justice (DCJ). The DCJ Code of Ethical Conduct (Code) requires its employees to maintain high standards of integrity and ethical conduct. DCJ will conduct all business dealings in a fair, honest and consistent manner.

This Statement serves as a guide for contractors, consultants, suppliers, tenderers and business partners (referred to as third party providers or suppliers throughout this Statement) who conduct business with DCJ. DCJ requires all providers of goods and services and business partners to observe the principles outlined in this Statement.

If you are doing business with DCJ, you should be aware of our core business principles:

- DCJ requires all its employees and anyone acting on behalf of DCJ to comply with this Statement.
- Support the Aboriginal Procurement Policy by providing employment opportunities for Aboriginal people within Aboriginal owned businesses and non-Aboriginal owned businesses.
- DCJ conducts all business with honesty, transparency, fairness and impartiality.
- DCJ needs to obtain value for money for public spending.
- All decisions and actions by DCJ are made fairly, objectively, reasonably and recorded.
- DCJ employees and those who supply goods and services will be held accountable for their decisions and actions.
- Procedures about the giving and receiving of gifts and benefits must be followed.
- Care must be taken to avoid actual, perceived or potential conflicts of interest (COI).
- Information should be accessed and shared only for the purposes of conducting DCJ business and in accordance with the relevant delegations and legislation.
- Information acquired in the course of work with DCJ must be managed with utmost confidentiality as per relevant legislation such as the *Privacy Act 1988*.

These principles are explained more fully below.

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## GENERAL ETHICAL PRINCIPLES

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### **Best value for money – Procurement and Selection Process**

The money DCJ spends on obtaining goods and services comes from the public and must be spent responsibly. The purchase of goods and services is through established NSW Government contract systems and in accordance with the State Government's policies, procedures, codes and regulations for procurement of goods and services.

DCJ makes decisions on tenders and purchasing considering cost but also factors such as quality, reliability, delivery time and support services.

In the case of third party providers, experience, qualifications and knowledge are taken into account as well as cost. These selection criteria will be stated in the tender documents.

- All parties are expected to approach the tender process with honesty, fairness, transparency, co-operation, lawfully and with no improper advantage.
- The parties must not seek or submit tenders without a firm intention to proceed.
- There should be no anti-competitive practices, such as collusion between tenderers.
- All parties are expected to keep their bid details confidential.
- All parties are expected to disclose any potential, perceived or real conflicts of interest.

### **Confidentiality and Accountability**

All communications made or received by DCJ will be managed in a secure and confidential manner. DCJ keeps records of all business transactions to ensure transparency, an effective audit trail and as a way to monitor and review the performance of contracts.

DCJ requires its employees to keep detailed and relevant records of all stages of the procurement process. Any departure from established processes needs to be approved by senior management, with reasons recorded.

The supplier of goods or services is likewise expected to fulfil their side of the bargain or report immediately to DCJ any problems in doing so.

### **Fairness and Impartiality**

DCJ recognises that suppliers of goods and services invest time, effort and resources in preparing and submitting bids.

In return, suppliers are assured of the following:

- Impartial and fair treatment at all stages of the procurement process.
- To receive equal access to information and to have the same opportunities to submit bids or tenders.
- To be subject to probity and audit checks, if required.
- To have their intellectual property rights recognised and respected, and to receive fair compensation for any access to, license or use of those rights.
- Selection criteria and tender specifications will be established and documented prior to the calling of the bid. If any change needs to be made, all bidders will be given the altered details and treated equitably.
- DCJ will publish details of contracts awarded on the e-Tendering website, as required by legislation.

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## SPECIFIC ETHICAL PRINCIPLES

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### What DCJ expects from its employees:

- To demonstrate the core values of the Public Sector and Department at all times (as specified under the Code and noting the core values are included under the *Ethical Framework for the Government Sector*).
- Always act professionally and respectfully.
- Always act with courtesy and fairness.
- Always act in the public interest.
- Disclose and manage any conflicts of interest.
- Not accept or solicit money, gifts, hospitality, benefits or travel for performing official duties. Please refer to the DCJ Gifts, Benefits and Bequests Policy and Procedure.
- Not accept payment or any form of entertainment, including meals, and only interact with third party providers when a clear business purpose exists (DCJ employees are generally not entitled to use government funds to pay for entertainment).
- DCJ pays the business travel and accommodation costs for our employees. Only DCJ can agree to accept this benefit from a third party provider, not an individual.
- Manage all information gained in the course of official duties sensitively.
- Not make public/social media comment about providers that have business dealings with DCJ.
- Manage all information securely to prevent unauthorised access.
- Obtain approval in writing prior to engaging in other paid employment outside their official duties.
- Not use or take advantage of confidential information obtained in the course of their employment with DCJ when, or if, other employment is sought.
- Engage in a fair and ethical way that is free from bullying, harassment, victimisation and abuse.
- Report wrong-doing (including fraud, corruption, breach of privacy and maladministration).
- Pay suppliers on time.

### What DCJ expects from third party providers including their supply chains such as sub-contractors

- Compliance with applicable laws, regulations, policies, procedures and good business practices in all their dealings with DCJ.

- Take reasonable measures to prevent unethical practices in their businesses to the extent that it may affect DCJ.
- Actively promote and instil a culture of compliance with this Statement from their staff, contractors and other appropriate entities.
- Seek assistance when unsure about how to implement or apply the Statement.
- Ensure third parties acting on behalf of the supplier comply with this Statement.
- Provide accurate, timely and reliable advice and information, including tender briefings.
- Declare in writing any potential, actual or perceived conflicts of interest arising in their business activities with DCJ.
- Not engage in any form of collusive practice, including offering DCJ employees inducements, incentives, gifts, bribes or private employment and other commercial opportunities that may conflict with their public duties. (Ways for reporting breaches are outlined on the last page of this Statement).
- Protect and prevent the release of commercial-in-confidence information obtained in the course of their business dealings with DCJ.
- Ensure the security and proper use of government information, assets and materials.
- Not to discuss DCJ business practices or information in the media or other public forums, without approval from DCJ.
- Provide fair value for money in supplying DCJ with goods and services.
- Cooperate in preventing unethical practices and unprofessional conduct.
- Comply with all applicable laws and regulations relating to work, health and safety.
- Comply with the relevant international and Australian standards on compliance, risk management and fraud and corruption.
- Provide a fair and ethical workplace free from bullying, harassment, victimisation and abuse.
- Make all reasonable efforts to ensure that businesses within their supply chain are not engaged in, or complicit with, human rights abuses, such as forced or child labour.
- Minimise the environmental impact of their operations and maintain environmentally responsible policies and practices.
- Pay employees and sub-contractors on time.

## **Assessment and Audit**

DCJ may undertake assessments/probity checks of potential third party providers where there may be a risk of an actual, potential or perceived COI.

Where a material risk has been identified, this will affect DCJ's decision in the tendering process.

DCJ expects third party providers including their supply chains such as sub-contractors to have an assurance framework in place to ensure their business is operating in accordance with relevant legislation, industry standards and guidelines.

DCJ reserves the right to verify compliance with this Statement, relevant legislation, industry standards and guidelines by conducting an audit or investigation.

## **Gifts and Benefits**

DCJ employees (including contractors) are not permitted to request financial or non-financial benefits and are expected to decline such offers. The acceptance of gifts or benefits in the course of employment has the potential to create a conflict of interest, or the appearance of a conflict of interest, and could lead to corrupt conduct.

Suppliers must not at any time offer or provide any financial or non-financial benefits to DCJ employees..

If a gift or benefit is offered to a DCJ employee in the course of their employment it must be declared and recorded in the centralised DCJ gift register in accordance with DCJ policy, irrespective whether they accept or decline the gift or benefit.

Any offer of payment, gratuity, benefit or service, made in order to induce a DCJ employee to neglect their duty, give preferential treatment to, or act in any way other than in accordance with the proper discharge of their duties is considered bribery and must be reported. Bribery in any form is illegal and will be reported to the relevant authority. It may result in serious penalties, including imprisonment.

## **Conflicts of Interest**

A conflict of interest involves an actual, potential or perceived conflict between the public duty and private interests of a public official, as set out below. A conflict of interest can arise when a person's business and private interests intersect. Private interests can include a person's own professional and financial interests, as well as past and present associations with other individuals, groups or family.

The Independent Commission Against Corruption (ICAC) defines a conflict of interest as: *When a reasonable person might perceive that a public official's private interests could be favoured over their public duties.*

A conflict of interest can also occur when a third party provider undertaking official duties, or those associated with it, could favour their personal interests over their public duties. Private interests could include the interests of the third party providers, related sub-contractors and related individuals (such as officeholders, managers and staff of the third party provider).

Third party providers must avoid intentionally placing DCJ employees in a conflict of interest situation. DCJ expects that any conflict of interest identified by a third party supplier is resolved in favour of DCJ's interests and the public interest. Where third party suppliers are not sure about declaring and resolving conflicts of interest, DCJ expects third party suppliers to err on the side of caution to ensure that the public interest has priority.

Conflicts of interest that lead to biased decision-making may constitute corrupt conduct. Perceived conflicts of interest, when unmanaged, can damage public trust in government decisions.

## **Management and Disclosure of a Conflict of Interest**

Where there is an actual, potential or perceived conflict of interest it must be declared in writing and strategies be put in place to manage it. This is to ensure that the honesty, transparency and integrity of both DCJ and the third party provider are maintained and to prevent the conflict from having a detrimental effect on any of the parties involved.

Conflicts of interest, whether actual, potential or perceived, must be immediately reported to the relevant NSW Government department or agency.

DCJ is committed to declaring, recording and managing conflicts of interests.

DCJ requires its employees to disclose all conflicts of interest in accordance with the DCJ Conflicts of Interest Policy and Procedure.

Third party suppliers are required to disclose any conflicts of interest by completing the required documentation that form part of the tendering process.

Failure to identify, declare, record and manage a conflict of interest is where serious corruption often begins. For this reason managing conflicts of interest, including perceived and potential conflicts of interest, is an important corruption prevention strategy.

### **Reporting Corrupt Conduct**

DCJ is committed to preventing wrongdoing and corrupt conduct and to ensure that:

- All DCJ employees are guided and encouraged to behave with integrity;
- Clear policy and procedures are available that instil proper process; and
- Supervision and monitoring serve as checks to ensure that wrongdoing and corrupt conduct are disclosed and appropriately dealt with.

Corrupt conduct is defined by the ICAC as deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.

While it takes many forms, corrupt conduct occurs when:

- A public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others.
- A public official dishonestly exercises his or her official functions, or improperly exercises his or her official functions in a partial manner, breaches public trust or misuses information or material acquired during the course of his or her official functions.
- A member of the public influences, or tries to influence, a public official to use his or her position in a way that affects the probity of the public official's exercise of functions.
- A member of the public engages in conduct that could involve one of the matters set out in section 8(2A) of the NSW ICAC Act where such conduct impairs, or could impair, public confidence in public administration. Some examples of this are:
  - a) collusive tendering,
  - b) fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,
  - c) dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or

application of public funds for private advantage or the disposition of public assets for private advantage,

- d) defrauding the public revenue,
- e) fraudulently obtaining or retaining employment or appointment as a public official.

DCJ considers it an obligation of its employees and third party providers that such conduct be promptly reported.

In accordance with legislation, the DCJ Code of Ethical Conduct and the DCJ Fraud and Corruption Programs, DCJ employees are required to report any suspected corrupt conduct or wrongdoing. One of the options available to public officials (current or former government employees) is the Public Interest Disclosures (PID) Act 2022. This Act offers protection to public officials who give information about corruption, mal-administration or substantial waste of public money and deems it a criminal offence to take any detrimental action against the person(s) who reported the information.

A public official in Division 3 Section 14 of the PID Act includes but not limited to:

- (a) a person employed in or by an agency or otherwise in the service of an agency
- (b) a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer
- (c) an entity, under a contract, subcontract or other arrangement providing services on behalf of an agency or exercising functions of an agency in whole or in part.

While the PID Act does not apply to individuals who are not public officials, DCJ will treat confidentially and sensitively all information provided in respect to wrongdoing and corrupt conduct. DCJ requires those who do business with DCJ to report to DCJ any suspected corrupt conduct, wrongdoing, fraud or breach of this Statement involving a DCJ employee or involving any other person working or contracted or undertaking work on behalf of DCJ.

Further, DCJ requires suppliers and their sub-contractors to protect and support people who report wrongdoing.

Where a third party provider is concerned about any conduct that could involve fraud, corrupt conduct, maladministration, or serious and substantial waste of public funds, this can be reported via the list of reporting channels outlined below. For example,

reports of corrupt conduct may be made directly to the ICAC.

### **Security in Correctional Facilities and Youth Justice Centres**

In addition to the general business principles explained above, third party providers and others entering correctional facilities are reminded that it is a criminal offence and a serious risk to the community to take anything into a correctional facility for an offender, or to take anything out of a correctional facility on behalf of an offender. DCJ will provide training about specific security issues for those entering a correctional facility as and when required.

### **Implications of non-compliance with this Statement**

Third party providers should be aware that non-compliance with this Statement when doing business with DCJ, as well as proven corrupt or unethical conduct, could lead to:

- termination of contract/s.
- loss of future work.
- loss of reputation.
- investigation for corruption.
- criminal investigation.
- suspension/removal from prequalification schemes and panel arrangements.
- loss of public confidence.

## Additional information

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### **Confidentiality and intellectual property rights**

Information provided by or collected from the NSW Government is provided on a confidential basis, unless otherwise explicitly indicated, or the information is already in the public domain. The NSW Government and our suppliers (actual and potential) will respect and honour each other's confidentiality and intellectual property rights.

### **Environmental sustainability**

We expect our suppliers to minimise the environmental impact of their operations and maintain environmentally responsible policies and practices.

### **Sponsorship**

Any sponsorship arrangement must be open and transparent and should not create any perception that it will improperly influence the decision making of the NSW Government.

### **Labour and human rights**

We expect our suppliers to provide a fair and ethical workplace. Our suppliers are also expected to take all reasonable efforts to ensure that businesses within their supply chain are not engaged in, or complicit with, human rights abuses, such as forced or child labour.

### **Work, health and safety**

We expect our third party providers to provide a safe work environment and integrate sound health and safety management practices into their business.

Providers must comply with all applicable laws and regulations relating to work, health and safety.

## How do I report wrongdoing?

If you are concerned about a possible breach of this Statement, including but not limited to concerns about being treated fairly during the procurement and selection process, or would like to provide information about suspected fraud, corruption, conflicts of interest, unethical behaviour or maladministration you should report this directly to the Department of Communities and Justice (DCJ) via one of the following channels:

- DCJ Fraud and Corruption Hotline call 1800 950 649 or email [DCJFraudHotline@coreintegrity.com.au](mailto:DCJFraudHotline@coreintegrity.com.au).
- Additional information on reporting fraud and corruption can be found here at [DCJ Fraud and Corruption Prevention](#).
- Public Interest Disclosure (PID) Officer for former or current public officials only: email [pid@dcj.nsw.gov.au](mailto:pid@dcj.nsw.gov.au).
- Feedback Assist Widget on government public facing websites

You can also report concerns about any conduct that could involve fraud, corruption, maladministration, or serious and substantial waste of public funds to one of these external channels:

Corrupt conduct – [Independent Commission Against Corruption \(ICAC\)](#)

Maladministration – [NSW Ombudsman](#)

Serious and substantial waste – [NSW Audit Office](#)

Access to government information (GIPA) – <https://www.ipc.nsw.gov.au/>