



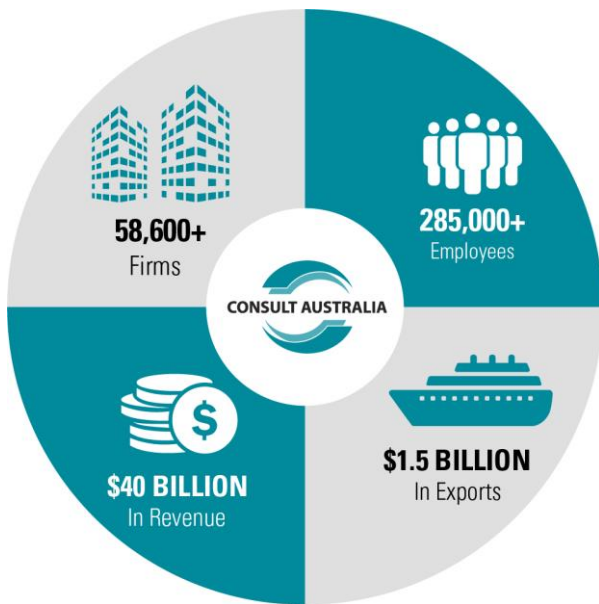
February 2024
Commonwealth Supplier
Code of Conduct

SUBMISSION TO DEPARTMENT OF FINANCE

Consult Australia

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About us

Consult Australia is the industry association representing consulting businesses in design, advisory and engineering, an industry comprised of over 58,600 businesses across Australia. This includes some of Australia’s top 500 companies and many small businesses (97%). Our members provide solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry directly employs over 285,000 people in architectural, engineering and technical services and many more in advisory and business support. It is also a job creator for the Australian economy, the services we provide unlock many more jobs across the construction industry and the broader community.

Our members include:



A full membership list is available [here](#).

The commitment of Consult Australia members

Consult Australia welcomes the opportunity to contribute to the Department of Finance's consultation on the proposed Commonwealth Supplier Code of Conduct. All levels of government rely on the deep technical advice provided by Consult Australia member businesses from a broad suite of disciplines including engineering, design, architecture, quantity surveying, community engagement, environmental services and sustainability, project management, strategy, planning, urban design, and landscape architecture.

The services provided by our member are critical to the conception, planning, delivery and operation of both public and private sector infrastructure and construction nation-wide. They are a critical component of Australia's advanced services sector and knowledge economy generating over \$1.1 billion in exports, with Australia seen as a global leader for the delivery of these services internationally.

Over the past twelve months we have seen increasing scrutiny of the values against which a range of professional services are being delivered. In this context, [Consult Australia's Code of Ethics](#) is an important point of difference. This distinguishes the delivery of services by our members relative to those provided by competitors that may not make this same commitment or lead collaboratively through the Consult Australia membership.

Our members are all required to commit to the Code of Ethics, a testament to their leadership in the industry. When dealing with **clients**, the **community**, and **other members**, Consult Australia member businesses will uphold the standards expected of professional consultants, committing to three core principles:



Collaboration

Sharing ideas, skills, experience and building relationships to achieve shared goals.



Fairness

Treating everyone with respect, consistency and acting equitably.



Integrity

Acting honestly, authentically and being accountable.

The behaviours and commitments set out in our Code of Ethics are in addition to legal obligations on members including but not limited to:

- common law requirements
- consumer protection and competition legislation
- contractual obligations
- corporations' law
- legal frameworks that govern modern slavery, bribery, and corruption, including the Criminal Code
- environmental requirements and standards
- workplace health and safety.

Most relevant to this consultation it is worth noting that under the Code of Ethics, when dealing with clients (including government clients) it is expected that Consult Australia members will:

- act only in areas of their competence and practise in a careful and diligent manner
- work collaboratively with clients to deliver the services, seeking to resolve issues together
- be efficient and proactive, by fairly considering the client's needs and interests
- provide advice that balances client needs with consideration of the needs of current and future generations including environment, health, wellbeing and safety
- provide clear, well considered advice on viability of a project or process to the client, where appropriate to the consultant's appointment and role and which the consultant is reasonably expected to consider.

Alongside the Code of Ethics, Consult Australia's [Code of Conduct](#) and the [Guide on Consult Australia activities and avoiding anti-competitive behaviour](#) form a suite that makes clear the obligations expected of Consult Australia business members and their representatives. These materials are regularly shared with members and commitment to the behaviours are taken seriously. A breach of the Code of Ethics can result in membership suspension or cancellation.

With that framing, below are some observations about the proposed Commonwealth Supplier Code of Conduct.

Suggested improvements to the Supplier Code of Conduct

Our core concern is to ensure that the Supplier Code of Conduct achieves positive policy outcomes without adding unnecessary administrative burden on businesses. We welcome the opportunity to discuss the following feedback with the Department of Finance to collaboratively develop a Commonwealth Supplier Code of Conduct that uplifts all stakeholders within the supply chain.

The provisions regarding payment times are examples of a potential positive policy outcome. The Code's requirement for suppliers to reflect the [Commonwealth's maximum payment times](#) in their contracts with subcontractors – be it 5 calendar days for electronic invoicing where appropriate or 20 calendar days for all other invoices is supported. Payment times are a critical issue to our membership, especially small businesses that rely on timely payments to pay their people and keep the business operating.

On the other hand, where the Supplier Code of Conduct duplicates existing obligations, whether under law or contract, we do not see a policy benefit – only a business burden. For example, references to competition law, or work, health and safety laws in the Code, without explanation of the entire obligation required by suppliers as relevant to the specific supplier could cause issues and not accurately reflect the obligations on the particular business. Consult Australia suggests that as an alternative, the Code could include a provision that states:

Suppliers must develop and maintain appropriate processes to manage their obligations relating to their operations consistent with policy and law.

To support the implementation and ongoing industry compliance with the proposed Commonwealth Supplier Code of Conduct, we welcome the opportunity to work with the Department to develop guidance. Our members are particularly interested in guidance on:

- the Australian Public Service Values and how to implement the values
- the positive duty placed on suppliers to take proactive action to prevent and discourage breaches of the Code
- what would constitute acceptable policies, frameworks or systems, as noted in the draft Code contract clause.

Without sufficient guidance, there is a risk of differing expectations and compliance action by different Commonwealth entities which in the worst-case scenario could lead to unfair contractual repercussions.

Further, varying expectations between Commonwealth entities is likely to increase costs for suppliers, particularly if additional policies, frameworks, or systems are required, with these costs being pushed down the supply chain.

CONTACT

We would welcome any opportunity to further discuss the issues raised in this submission.



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