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# Statement of Business Ethics

NSW Reconstruction Authority

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V2.0



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# 1. Statement of Business Ethics

## 1.1 Scope

The Statement of Business Ethics (the **Statement**) provides guidelines on what is expected when conducting business with the NSW Reconstruction Authority. The NSW Reconstruction Authority Code of Conduct (the **Code**) requires all staff to maintain high standards of integrity and ethical conduct. The NSW Reconstruction Authority will conduct all business dealings in a fair, honest and consistent manner.

## 1.2 Purpose

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 the NSW Reconstruction Authority. The NSW Reconstruction Authority requires all providers of goods and services and business partners to observe the principles outlined in this Statement.

If you are doing business with the NSW Reconstruction Authority, you should be aware of our core business principles:

- The NSW Reconstruction Authority requires all its staff and anyone acting on behalf of The NSW Reconstruction Authority to comply with this Statement.
- The NSW Reconstruction Authority supports the Aboriginal Procurement Policy by providing employment opportunities for Aboriginal people within Aboriginal owned businesses and non-Aboriginal owned businesses.
- The NSW Reconstruction Authority conducts all business with honesty, transparency, fairness and impartiality.
- The NSW Reconstruction Authority needs to obtain value for money for public spending.
- All decisions and actions by the NSW Reconstruction Authority are made fairly, objectively, reasonably and are recorded.
- NSW Reconstruction Authority staff 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.
- Information should be accessed and shared only for the purposes of conducting NSW Reconstruction Authority business and in accordance with the relevant delegations and legislation.
- Information acquired in the course of work with the NSW Reconstruction Authority must be managed with utmost confidentiality as per relevant legislation such as the *Privacy Act 1988*.

These principles are explained more fully below.

## 1.3 Definitions

Acronym / Term	Definition
NSW Reconstruction Authority staff members	Includes public sector Senior Executives and non-executive employees who are ongoing or temporary, seconded staff working for the NSW Reconstruction Authority, graduates, interns, casual and contract staff.

Third party providers	Contractors, consultants, suppliers, tenderers and business partners who conduct business with the NSW Reconstruction Authority.
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## 1.4 General ethical principles

### 1.4.1 Best value for money - Procurement and selection process

The money the NSW Reconstruction Authority 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.

The NSW Reconstruction Authority 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.

### 1.4.2 Confidentiality and accountability

All communications made or received by the NSW Reconstruction Authority will be managed in a secure and confidential manner. The NSW Reconstruction Authority 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.

The NSW Reconstruction Authority requires its staff 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 the NSW Reconstruction Authority any problems in doing so.

### 1.4.3 Fairness and impartiality

The NSW Reconstruction Authority 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.
- Equal access to information and equal opportunities to submit bids or tenders.
- 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.
- The NSW Reconstruction Authority will publish details of contracts awarded on the e-Tendering website, as required by legislation.

## 1.5 Specific ethical principles

### 1.5.1 What the NSW Reconstruction Authority expects from its staff

- To demonstrate the core values of the Public Sector and agency 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 Code and the NSW Reconstruction Authority Gifts, Benefits and Hospitality Factsheet.
- Not accept payment or any form of entertainment, including meals, and only interact with third party providers when a clear business purpose exists ( NSW Reconstruction Authority staff are generally not entitled to use government funds to pay for entertainment).
- The NSW Reconstruction Authority pays the business travel and accommodation costs for our staff. Only the NSW Reconstruction Authority 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 the NSW Reconstruction Authority.
- 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 the NSW Reconstruction Authority 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.

### 1.5.2 What the NSW Reconstruction Authority 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 the NSW Reconstruction Authority.
- Take reasonable measures to prevent unethical practices in their businesses to the extent that it may affect the NSW Reconstruction Authority.
- Actively promote and instill 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 the NSW Reconstruction Authority.

- Not engage in any form of collusive practice, including offering NSW Reconstruction Authority staff inducements, incentives, gifts, bribes or private employment and other commercial opportunities that may conflict with their public duties. (Refer to 1.9 Reporting wrongdoing).
- Protect and prevent the release of commercial-in-confidence information obtained in the course of their business dealings with the NSW Reconstruction Authority.
- Ensure the security and proper use of government information, assets and materials.
- Not to discuss NSW Reconstruction Authority business practices or information in the media or other public forums, without approval from the NSW Reconstruction Authority.
- Provide fair value for money in supplying the NSW Reconstruction Authority 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 staff and sub-contractors on time.

### **1.5.3 Assessment and audit**

The NSW Reconstruction Authority may undertake assessments/probity checks of potential third party providers where there may be a risk of an actual, potential or perceived conflict of interest. Where a material risk has been identified, this will affect the NSW Reconstruction Authority's decision in the tendering process.

The NSW Reconstruction Authority 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.

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

### **1.5.4 Gifts and benefits**

The NSW Reconstruction Authority staff (including contractors) are not permitted to request financial or non-financial benefits and are expected to decline such offers. The acceptance of gifts, benefits and hospitality 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 NSW Reconstruction Authority staff.

If a gift or benefit is offered to a NSW Reconstruction Authority staff member in the course of their employment it must be declared and recorded in the centralised NSW Reconstruction Authority gift register in accordance with NSW Reconstruction Authority 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 NSW Reconstruction Authority staff member 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.

### **1.5.5 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 the NSW Reconstruction Authority staff in a conflict of interest situation. The NSW Reconstruction Authority expects that any conflict of interest identified by a third-party supplier is resolved in favour of the NSW Reconstruction Authority's interests and the public interest. Where third party suppliers are not sure about declaring and resolving conflicts of interest, the NSW Reconstruction Authority 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.

### **1.5.6 Disclosure and management 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 the NSW Reconstruction Authority 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 NSW Reconstruction Authority. The NSW Reconstruction Authority is committed to declaring, recording and managing conflicts of interests and requires its staff to disclose all conflicts of interest in accordance with the NSW Reconstruction Authority Conflicts of Interest Policy.

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.

### 1.5.7 Reporting corrupt conduct

The NSW Reconstruction Authority is committed to preventing wrongdoing and corrupt conduct and to ensure that:

- All NSW Reconstruction Authority staff are guided and encouraged to behave with integrity.
- Clear policy and procedures are available that instill proper process.
- 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:
  - collusive tendering
  - fraud in relation to applications for licenses, 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
  - 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
  - defrauding the public revenue
  - fraudulently obtaining or retaining employment or appointment as a public official.

The NSW Reconstruction Authority considers it an obligation of its staff and third-party providers that such conduct be promptly reported.

In accordance with legislation and the Code, NSW Reconstruction Authority staff are required to report any suspected corrupt conduct or wrongdoing. One of the options available to public officials (current or former government staff) is the *Public Interest Disclosures (PID) Act 1994*. 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 section 4A of the PID Act includes:

- an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority; or
- if a corporation (third party) is engaged by a public authority under a contract to provide services to or on behalf of the public authority, an employee or officer of the corporation (third party) who provides or is to provide the contracted services or any part of those services.

While the PID Act does not apply to individuals who are not public officials, the NSW Reconstruction Authority will treat confidentially and sensitively all information provided in



respect to wrongdoing and corrupt conduct. The NSW Reconstruction Authority requires those who do business with the NSW Reconstruction Authority to report to the NSW Reconstruction Authority any suspected corrupt conduct, wrongdoing, fraud or breach of this Statement involving a NSW Reconstruction Authority staff member or involving any other person working or contracted or undertaking work on behalf of the NSW Reconstruction Authority.

Further, the NSW Reconstruction Authority 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.

## **1.6 Compliance**

Breaches of this Statement by NSW Reconstruction Authority staff will be dealt with in line with the NSW Reconstruction Authority's Code.

Third party providers should be aware that non- compliance with this Statement when doing business with the NSW Reconstruction Authority, 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.
- suspension/removal from prequalification schemes and panel arrangements.
- loss of public confidence.

## **1.7 Additional information**

### **1.7.1 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.

### **1.7.2 Environmental sustainability**

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

### **1.7.3 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.

### **1.7.4 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.

### 1.7.5 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.

## 1.8 Reporting 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 NSW Reconstruction Authority via one of the following channels:

- Feedback to [info@resilience.nsw.gov.au](mailto:info@resilience.nsw.gov.au)
- Public Interest Disclosure (PID) Officer for former or current public officials only: email [PID@resilience.nsw.gov.au](mailto:PID@resilience.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/>

## 1.9 References

Legislation – Acts and Regulations

- *Privacy Act 1988* (Cth)
- *Independent Commission Against Corruption Act 1988*
- *Public Interest Disclosures Act 1994*

External documents [i.e. NSW Government Directives, DPC policies etc]

- Aboriginal Procurement Policy
- e-Tendering website
- *Ethical Framework for the Government Sector*

NSW Reconstruction Authority Policies

- NSW Reconstruction Authority Code of Conduct
- NSW Reconstruction Authority Gifts, Benefits and Hospitality Factsheet
- NSW Reconstruction Authority Conflicts of Interest Policy

## 1.10 Contacts

Director, Governance. Governance Branch, People, Performance & Governance.

[governance@resilience.nsw.gov.au](mailto:governance@resilience.nsw.gov.au)

## 2. Document Version Control

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