

Fair Jobs Code

Pre-assessment certificate

guidelines for suppliers
and businesses

1 September 2024

WHAT IS THE FAIR JOBS CODE?

The Fair Jobs Code aims to encourage and reward businesses and suppliers that comply with industrial relations and occupational health and safety laws, and to promote Fair Jobs Code standards including:

- secure employment and job security;
- cooperative and constructive relationships between employers, employees and their representatives;
- workplace equity and diversity; and
- supply chain compliance.

These guidelines explain how to apply for and obtain a pre-assessment certificate.

WHAT IS A PRE-ASSESSMENT CERTIFICATE?

A pre-assessment certificate demonstrates that the supplier or business has been assessed by the Fair Jobs Code Unit (FJC Unit) as having complied with employment, industrial relations and occupational health and safety laws over the previous 3 years.

WHO NEEDS A PRE-ASSESSMENT CERTIFICATE?

A pre-assessment certificate is required for:

- 1.1 A *supplier* of goods, services or works, including a provider of construction works, who is intending to bid for procurement contracts valued at \$1 million or more (exclusive of GST).
- 1.2 A *business* intending to apply for a government grant if the Victorian Government component of the grant is worth \$500,000 or more (exclusive of GST), and where a key milestone is to deliver new jobs.
- 1.3 A *significant subcontractor* engaged by a supplier where the value of the subcontract is worth \$1 million or more (exclusive of GST).

HOW TO APPLY FOR A CERTIFICATE

To apply for a certificate, go to:

buyingfor.vic.gov.au/apply-fair-jobs-code-pre-assessment-certificate

FOR MORE INFORMATION

For more information about the code, visit:

buyingforvic.gov.au/fair-jobs-code

Contents

1. Guidelines issued by the Minister	4
2. Background.....	4
3. Fair Jobs Code.....	4
4. Pre-assessment certificate	5
5. Who needs to apply for a certificate?	5
6. Exclusions and exceptions under the Fair Jobs Code	5
7. How to apply for a certificate?.....	6
8. How long will it take to obtain a certificate?.....	6
9. What Information will I need to provide?	6
10. Business details	7
11. Compliance with Industrial Relations and Occupational Health and Safety Laws	7
12. Agreement to terms set out in the declaration	7
13. Audit and review.....	8
14. Assessment of your application for a certificate	8
15. Application outcomes.....	9
16. Certificate register	9
17. Certificate renewal	9
18. Revocation of a certificate	9
19. Review of decision by the FJC Unit.....	10
20. General complaints	10
21. Complaints about a holder of a certificate	10
22. Relationship with the Code, Commonwealth and State laws and policies	11
23. Governance	11
24. Tools and support.....	12
Appendix 1: Glossary.....	13
Appendix 2: Information to be provided in application for a pre-assessment certificate	15
Appendix 3: Fair Job Code standards	18

1. Guidelines issued by the Minister

- 1.1 These guidelines are issued by the Minister for Jobs and Industry to assist suppliers and businesses who wish to apply for a pre-assessment certificate.
- 1.2 These guidelines may be updated from time to time to reflect any policy or legislative changes that may arise during the Fair Job Code's implementation. To ensure that you are using the latest version of the guidelines, go to buyingfor.vic.gov.au/fair-jobs-code-guidelines-suppliers-and-businesses.
- 1.3 These guidelines should be read in conjunction with the Fair Jobs Code.

2. Background

- 2.1 The code came into operation on 1 December 2022 and revisions to the code will become operative on 1 September 2024. These guidelines apply to the revised code.
- 2.2 For all *Standing Offer Arrangements* (including *State Purchase Contracts* and *Sole Entity Purchase Contracts*), the code will apply from the date that the Standing Offer Arrangement commences, is updated, or reissued to refer to this.

3. Fair Jobs Code

- 3.1 The Fair Jobs Code (code) is a clear demonstration of the Victorian Government's commitment to ensuring that suppliers tendering for threshold procurement contracts, or high value procurement contracts, significant subcontractors and businesses applying for significant business expansion grants, are recognised for their commitment to treating workers fairly.
 - a. A *threshold procurement contract* is a contract worth **\$1 million** or more but less than \$20 million (exclusive of GST).
 - b. A *high-value procurement contract* is a contract worth **\$20 million** or more (exclusive of GST).
 - c. A significant subcontractor is a subcontractor for a supplier for a threshold or high value procurement contract, where the value of that subcontract is **\$1 million** or more (exclusive of GST).
 - d. A *significant business expansion grant* is a grant agreement with a Victorian Government agency (agency):
 - i. worth **\$500,000** or more (exclusive of GST); **and**
 - ii. which specifies that the recipient business must direct the funding provided in the grant towards direct employment costs of the business to increase the number of staff employed.
- 3.2 The Government's aim in introducing the code as an integral part of the procurement and grants framework in Victoria is to:
 - a. promote fair labour standards
 - b. encourage compliance with employment, industrial relations and workplace health and safety obligations
 - c. promote secure employment and job security
 - d. foster cooperative and constructive workplace relationships between employers, employees, and their representatives
 - e. promote workplace equity and diversity
 - f. encourage supply chain companies to comply with similar employment standards.
- 3.3 The code supports existing requirements for government contracts and grants. Information on these is available at buyingfor.vic.gov.au/fair-jobs-code.

4. Pre-assessment certificate

- 4.1 A pre-assessment certificate is a certificate issued to a supplier or business by the Fair Jobs Code Unit (FJC Unit) of the Department of Jobs, Skills, Industry and Regions.
- 4.2 A pre-assessment certificate verifies compliance by a supplier or business with industrial relations and occupational health and safety laws over the previous 3 years.
- 4.3 Holding a current and valid certificate is a pre-condition to apply for:
- a *threshold procurement contract*, or
 - a *high-value procurement contract*, or
 - to be a *significant subcontractor*; or
 - a *significant business expansion grant*; or
 - a *Standing Offer Arrangement* (including *State Purchase Contracts* and *Sole Entity Purchase Contracts*).
- 4.4 Holding a current and valid certificate is a contractual requirement for the life of a threshold procurement contract, high-value procurement contract or significant business expansion grant.

5. Who needs to apply for a certificate?

- 5.1 If you fall into one or more of the three categories described below, you should apply for a certificate:
- a supplier of goods, services or works, including a provider of construction works, who is intending to bid for threshold procurement contracts.
 - a subcontractor, engaged by a supplier in relation to a threshold or high value procurement contract, where the value of the subcontract is worth **\$1 million** or more.
 - a business intending to apply for a government grant:
 - if the Victorian Government component of the grant is worth **\$500,000** or more, **and**
 - if the terms of the grant specify that the recipient business must direct the funding provided in the grant towards direct employment costs of the business to increase the number of staff employed.
- 5.2 The code applies to universities and their subsidiaries, who are defined as suppliers under the code.
- 5.3 If you plan to bid for threshold procurement contracts, high value procurement contracts or significant business expansion grants, you should allow for **at least 30 business days** to obtain a certificate.

6. Exclusions and exceptions under the Fair Jobs Code

- 6.1 In certain circumstances, agencies may enter into contracts and grant agreements with suppliers and businesses that do not hold certificates. Please note that suppliers and businesses are not able to apply directly for an exception.
- 6.2 The code does not apply to procurement between two agencies where an agency that is required to comply with the Victorian Government Purchasing Board's goods and services supply policies as a purchaser (as well as the agencies listed in Schedule 1 to the Fair Jobs Code) is providing goods, services or works to another agency.

- 6.3 For the avoidance of doubt any other public entity *not* mandated to comply with the Victorian Government Purchasing Board's good and services supply policies as a purchaser (e.g. universities), as well as the agencies listed in Schedule 1 to the Fair Jobs Code, will be deemed a supplier and the code will apply.
- 6.4 For details on exception provisions see sections 4.3–4.5 of the code and the *Guidelines for Government Departments and Agencies – Procurement* at: buyingfor.vic.gov.au/fair-jobs-code-agencies-procurement.

7. How to apply for a certificate?

- 7.1 The FJC Unit is responsible for processing applications and issuing certificates.
- 7.2 Certificates will only be issued to legal entities who propose to conduct their business operations within Victoria.
- 7.3 To apply for a certificate, go to: buyingfor.vic.gov.au/apply-fair-jobs-code-pre-assessment-certificate.
- 7.4 Once you have created an account, you will be issued with an application number and then be able to commence your application or return to a saved application.
- 7.5 There are no fees charged for applications for a certificate, for the issue of a certificate or for the renewal of a certificate.

8. How long will it take to obtain a certificate?

- 8.1 You will receive an email notification once your application is received. Applications will generally be assessed and processed within 30 business days from the date that it is lodged. If the FJC Unit requires more information or there are other exceptional circumstances, you will be informed of any variation to this timing.
- 8.2 If your application is incomplete, or if the FJC Unit requires further information to process your application, you will be notified and requested to provide additional information. This may delay the processing of your application. You can contact the FJC Unit at fairjobscod@ecodev.vic.gov.au if you wish to discuss the timing of your application.

9. What Information will I need to provide?

- 9.1 The application form will require you to provide information about your organisation, including:
- your personal information and details of your authority to act for the organisation seeking the certificate
 - organisation details, including relevant identifying information of all directors of your organisation (including in the case of companies, details of each director)
 - details of any current contracts the organisation has entered into with any Victorian Government department or agency including the total value of those Victorian Government contracts held by your organisation as at the time of the application
 - details of your organisation's compliance with industrial relations and occupational health and safety law over the past three years, and
 - your agreement to the terms set out in the declaration section of the application form.
- 9.2 Further details about the information you will need to provide are set out in 10 to 13 below and in Appendix 2.

10. Business details

- 10.1 This section of the application form requires you to provide information about your organisation. This will enable the FJC Unit to identify the legal entity to whom the certificate will be issued if the application is successful.

11. Compliance with Industrial Relations and Occupational Health and Safety Laws

- 11.1 The application form will require you to give details of your compliance with the:
- Fair Work Act 2009* (Cth.)
 - Occupational Health and Safety Act 2004* (Vic)
 - Wage Theft Act 2020* (Vic)
 - Long Service Benefits Portability Act 2018* (Vic)
 - Labour Hire Licensing Act 2018* (Vic)
 - equivalent applicable laws and regulations in other States and Territories of Australia, as listed in Appendix 3.
- 11.2 Specifically, you must disclose whether your organisation has:
- had any adverse rulings or enforceable undertakings issued against it in any Australian jurisdiction in the three years prior to the application; and
 - been issued with a Provisional Improvement Notice (PINs) within the last 3 years and details of those PINs.
- 11.3 Adverse rulings or enforceable undertakings must be disclosed if they relate to employment, industrial relations or workplace health and safety laws.
- 'Adverse ruling'** means a ruling by any court, tribunal, board, commission or other entity with jurisdiction or legal authority to determine the matter, that the supplier or business has breached an applicable employment, industrial relations or workplace health and safety law.
 - 'Enforceable undertaking'** means an undertaking or agreement made by a supplier or business with a regulator, Court, or other body (including the Fair Work Ombudsman, WorkSafe Victoria and Wage Inspectorate Victoria) in respect of a breach or alleged breach of an applicable employment, industrial relations or workplace health and safety law.
 - 'Provisional Improvement Notice'** means a written direction to address a contravention of the Occupational Health and Safety Act 2004 or the OHS Regulations 2017 issued by a Health and Safety Representative.
- 11.4 The FJC Unit will verify the information you provide against regulatory databases and any other information available to it, including from the Fair Work Ombudsman, WorkSafe Victoria and other State, Territory and Commonwealth Government departments, agencies and regulators.
- 11.5 In the event you have had adverse rulings or enforceable undertakings issued against your organisation in the past three years, you will be asked to detail the actions you have taken to remedy the matters identified in the adverse rulings or enforceable undertakings.

12. Agreement to terms set out in the declaration

- 12.1 You will be required to agree to the terms set out in the declaration section of the application form.
- 12.2 It is important that you carefully read and understand the declaration, which includes:

- a. your consent for the FJC Unit to make enquiries about your organisation and to access information relating to your compliance with employment, industrial relations and workplace health and safety laws in Victoria and in other jurisdictions, and
 - b. your agreement to a continuing obligation, as a certificate holder, to disclose to the FJC Unit, within 10 business days, any new adverse rulings or enforceable undertakings made against you and the corrective actions to be taken by you to prevent a reoccurrence.
- 12.3 Failure to disclose an adverse ruling or an enforceable undertaking, and to make the disclosure within 10 business days, may result in revocation of your certificate.
- 12.4 You are required to notify the FJC Unit of an adverse ruling or enforceable undertaking made against your organisation. To do this:
- a. access/login to the Fair Jobs Code Portal at buyingfor.vic.gov.au/apply-fair-jobs-code-pre-assessment-certificate
 - b. select “Report Compliance Issues”; and
 - c. enter details of the breach, ruling or notice.
- 12.5 For suppliers engaged under a Standing Offer Arrangement (including a State Purchase Contract or a Sole Entity Purchase Contract) which contain clauses referring to the code, failure to meet continuous disclosure requirements may enable an agency to seek contractual remedies against the suppliers, may result in a suspension of purchase orders until the failure has been rectified and until the FJC Unit has determined whether the failure has had a material impact on the validity of the certificate.

13. Audit and review

- 13.1 As a certificate holder, you will be required to agree to cooperate with the FJC Unit and your contracting agency, in supplying any information required by them in relation to compliance with the code. This includes information for the purposes of an audit and/or review being conducted by them at any time you hold a current certificate.

14. Assessment of your application for a certificate

- 14.1 Applications for certificates are assessed against the criteria outlined in Section 5.5 of the code.
- 14.2 The FJC Unit will assess your current compliance with industrial relations and occupational health and safety laws and your compliance for the three years preceding the date of your application.
- 14.3 As part of its assessment, the FJC Unit will consider any adverse rulings or enforceable undertakings made against your organisation, or related parties or a related entity to your organisation, in the three years preceding the date of your application.
- 14.4 In conducting an assessment, the FJC Unit will consider a range of criteria including the seriousness of the conduct reflected in any adverse rulings or enforceable undertakings, whether the conduct was isolated or systemic and how your organisation responded to rectify the conduct. For further information on the criteria considered in the assessment see Section 5.5 of the code.
- 14.5 In assessing your application, the FJC Unit will consider the information provided in your application and may also consider other information available to it from regulators such as the Fair Work Ombudsman, the Fair Work Commission, WorkSafe Victoria and other relevant Victorian Government agencies, including an assessment that the business holds all relevant licences and registrations related to employment, industrial relations and workplace health & safety laws as required by the industry the business operates within.

- 14.6 If your application lacks sufficient information to complete an assessment, you will be asked to provide further information. Failure to respond will cause your application to lapse after 30 business days.

15. Application outcomes

- 15.1 Following the assessment of your application by the FJC Unit, your application may result in:
- A Certificate being issued.** You will be notified via email and be issued with a digital pre-assessment certificate. You will then be eligible to apply for threshold procurement contracts, high value procurement contracts or significant business expansion grants, for a period of two years from the date of issue, subject to ongoing disclosure requirements and adherence with the code.
 - A request for further information.** Where the information provided fails to adequately address the assessment criteria, you will be contacted by the FJC Unit and asked to provide further information by a specified date.
 - A decision to decline to issue certificate.** If your application does not meet the assessment criteria, you will be provided with an opportunity to make final submissions in support of your application. If the FJC unit declines to issue a certificate, you will be provided with a copy of the decision, and you may request a review as per Section 10 of the Fair Jobs Code. It is important to note that this outcome will not preclude you from re-applying in the future if circumstances have changed (contact the FJC Unit for further information).

16. Certificate register

- 16.1 The FJC Unit will maintain a publicly accessible register of suppliers and businesses that have applied for, or hold a current certificate, at buyingfor.vic.gov.au/fair-jobs-code-pre-assessment-certificate-register.
- 16.2 Businesses whose certificates have been revoked, have lapsed, or have been surrendered by the certificate holder will not be listed on the register.

17. Certificate renewal

- 17.1 Your certificate will expire after two years.
- 17.2 An application for renewal of your certificate can be lodged at buyingfor.vic.gov.au/apply-fair-jobs-code-pre-assessment-certificate.
- 17.3 You will receive a reminder to renew your certificate 60, 30, and 15 business days before the expiry date, sent via the contact details registered with the FJC Unit. It is your responsibility to update these details if they change. It is your responsibility to seek timely renewal.
- 17.4 When your certificate expires, you must notify any Victorian Government agency with whom you have an active contract or grant agreement within 10 business days of the expiry, irrespective of whether you are applying for a renewal.

18. Revocation of a certificate

- 18.1 The FJC Unit may revoke your certificate if it considers that you no longer meet the assessment criteria or if you no longer satisfy the requirements of standard 1 of the code. The details of a revoked certificate will be

removed from the publicly available *Fair Jobs Code Pre-Assessment Certificate Register*, which is maintained by the FJC Unit.

- 18.2 Prior to a decision to revoke your certificate, you will be informed of the reasons for the proposed decision and given an opportunity to provide information in support of not revoking your certificate.
- 18.3 If your certificate is revoked, and you have an active contract or grant agreement with a Victorian Government agency, you must notify that agency within 10 business days of the revocation. The agency may determine whether to seek contractual remedies against you.
- 18.4 If your certificate is revoked, it will not preclude you from re-applying for a new certificate in the future. Each application is assessed on its merits at the time of application and against the requirements of standard 1 of the code.

19. Review of decision by the FJC Unit

- 19.1 If the FJC Unit decides to decline to issue a certificate or to revoke your certificate, you may request a review of that decision. Your request must be submitted within 30 business days of being notified of the decision.
- 19.2 To request a review, log into the Fair Jobs Code portal go to buyingfor.vic.gov.au/apply-fair-jobs-code-pre-assessment-certificate and click on the 'Review Decision' icon on the home page. Select the relevant application or revoked certificate(s) and then click the continue button to submit a review decision form.
- 19.3 A senior officer of Department of Jobs, Skills, Industry and Regions (DJSIR) will conduct an independent internal review of the decision. The officer will give you the opportunity to provide any information that may be relevant to the review.
- 19.4 The final decision will be communicated to you in writing.

20. General complaints

- 20.1 General complaints about an action or service provided by the FJC Unit can be made at <https://www.buyingfor.vic.gov.au/complaints-under-fair-jobs-code>
- 20.2 Complaints will be managed in accordance with Department of Jobs, Skills, Industry and Regions policies and procedures (with any necessary modifications) and in line with the *Victorian Ombudsman's Complaint Good Practice Guide for Public Sector Agencies*.

21. Complaints about a holder of a certificate

- 21.1 A complaint can be made about a supplier or business that holds a certificate if a complainant has reasonable grounds to believe that a supplier or business has failed to comply with the code. See clause 11 of the code for more details.
- 21.2 In the event that a complaint is made against you, you will be notified of any investigation and given an opportunity to provide a response.
- 21.3 Complaints will be managed in accordance with Department of Jobs, Skills, Industry and Regions policies and procedures (with any necessary modifications) and in line with the *Victorian Ombudsman's Complaint Good Practice Guide for Public Sector Agencies*.

- 21.4 The FJC Unit will only use or disclose information provided by a complainant for the purpose of:
- assessing and responding to the complaint
 - assessing the implications of the complaint for a supplier or business
 - reporting on the operation of the code and the FJC Unit, to the extent practical, in a de-identified form
 - providing information to the Minister or the Local Jobs First Commissioner, including as to any systemic issues or trends identified, or
 - otherwise as required by law.

22. Relationship with the Code, Commonwealth and State laws and policies

- 22.1 In the event of a conflict between the code (including these guidelines) and any Commonwealth or State laws (including subordinate instruments made pursuant to those laws), those laws prevail.
- 22.2 The code or the granting of a certificate does not remove the requirements for suppliers or businesses to undergo assessments for other mandatory government pre-qualification schemes and approved registers.
- 22.3 The FJC Unit will not duplicate the legislated responsibility of regulators, such as the Fair Work Ombudsman and WorkSafe Victoria, nor will they replace the function of Victorian Government agencies and their contract managers.
- 22.4 There are a number of other Victorian Government codes and policies that relate to industrial relations and occupational health and safety laws and standards. Examples of complementary Victorian Government policies include:
- The *Supplier Code of Conduct*
 - The *Local Jobs First Policy*
 - The *Social Procurement Framework*
 - The *Building Equality Policy*
 - Victorian Government Call Centre Code*
- 22.5 The Fair Jobs Code Unit is actively working with agencies and industry to review how policies complement each other, and how any duplication can be removed.

23. Governance

- 23.1 **Fair Jobs Code Unit**
- The FJC Unit is responsible for implementation of the code. This includes issuing certificates and monitoring compliance with the code by certificate holders as well as monitoring FJC plan implementation.
 - The FJC Unit is located within DJSIR.
 - Contact Details:
Fair Jobs Code Unit
fairjobscode@ecodev.vic.gov.au
 - You may contact the FJC Unit:
 - for guidance on applying for or renewing a certificate
 - to provide further information to support an application for a certificate
 - to self-report a breach of the code

- iv. for information, advice, and support on meeting the requirements of the code, or
 - v. to provide information to the FJC Unit when it is conducting an audit, investigation, review or making a request for information.
- e. The FJC Unit may contact you to:
- i. provide information, advice, and support on meeting the requirements of the code
 - ii. discuss an application for a certificate, and communicate the outcome of an application
 - iii. notify you that your certificate is due for renewal, or
 - iv. seek information, in the course of conducting an audit, investigation or review.

23.2 Victorian Government Agencies

- a. Victorian Government agencies are responsible for:
- i. incorporating the requirements of the code and any model clauses into relevant procurement and grant documentation and contracts
 - ii. notifying the FJC Unit of self-reported supplier and business non-compliance with the code, and
 - iii. reviewing FJC plans/FJC plan addendums and monitoring their delivery throughout the term of the contract.

23.3 Local Jobs First Commissioner

- a. The Local Jobs First Commissioner's role includes engaging with agencies and industry to educate and promote the code.

24. Tools and support

- 24.1 For more information about the code including a video to support you with the application process, visit: buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses
- 24.2 You can also contact the FJC Unit at:
Fair Jobs Code Unit
fairjobscode@ecodev.vic.gov.au

Appendices

APPENDIX 1: Glossary

Term	Definition
adverse ruling	a ruling by any court, tribunal, board, commission or other entity with jurisdiction or legal authority to determine the matter, that the supplier or business has breached an applicable employment, industrial relations or workplace health and safety law.
agency	a department or public body mandated to comply with the Victorian Government Purchasing Board's goods and services supply policies. https://www.buyingfor.vic.gov.au/goods-and-services-mandated-agencies , as well as the agencies listed in Schedule 1 to the Fair Jobs Code.
agencies	the plural of 'agency'
assessment criteria	the criteria set out in clause 5.5 of the Fair Jobs Code for determining whether a business or supplier should obtain or retain a pre-assessment certificate.
business	any entity that is not an agency that that applies for a significant business expansion grant from a Victorian Government agency.
certificate	pre-assessment certificate.
code	the Victorian Fair Jobs Code.
director	means a person who is appointed to the position of director of a body corporate, or is appointed to the position of an alternate director and is acting in that capacity; regardless of the name that is given to their position.
employee representative	any individual or organisation nominated by an employee to act as their representative in the workplace for matters relating to employment or occupational health and safety. This may include a registered organisation of employees (such as a union), or an association of which the employee is a member.
enforceable undertaking	a promise or agreement made by a supplier or business with a regulator, Court, or other body (including the Fair Work Ombudsman, WorkSafe Victoria and Wage Inspectorate Victoria) in respect of a breach or alleged/suspected breach of an applicable employment, industrial relations or workplace health and safety law.
entity	means: <ul style="list-style-type: none"> i. a body corporate; ii. a partnership; iii. an unincorporated body; iv. an individual; v. for a trust that has only 1 trustee--the trustee; vi. for a trust that has more than 1 trustee--the trustees together.
FJC plan	a business' or supplier's Fair Jobs Code plan, which addresses industrial relations, occupational health and safety requirements and commitments and standards required by the code.

OFFICIAL

Term	Definition
FJC Unit	the Fair Jobs Code Unit, an administrative group within the Department of Jobs, Skills, Industry and Regions with responsibilities in relation to the code.
high value procurement contract	a contract between a supplier and a Victorian Government agency with a value of \$20 million or more (exclusive of GST).
including	including but not limited to.
Minister	the Minister for Jobs and Industry
pre-assessment certificate	a certificate that must be obtained by suppliers prior to tendering for threshold procurement contracts or high value procurement contracts or by businesses prior to applying for significant business expansion grants.
related entity	means a holding company of another entity, or, a subsidiary of another entity, or, a subsidiary of a holding company.
related parties	in relation to an entity, means other entities controlled, or previously controlled, by an officer of the entity.
significant business expansion grant	a grant from a Victorian Government agency with a value of \$500,000 or more (exclusive of GST) and where the key milestones under the grant agreement specifies that the business will direct the funding towards direct employment costs of the business and will, as a result of the funding increase the number of employees engaged by the business.
significant subcontractor	an entity engaged, or to be engaged, under a subcontract directly with a supplier for a threshold or high value procurement contract, where the value of that subcontract is \$1 million or more (exclusive of GST).
Sole Entity Purchase Contract	a Sole Entity Purchase Contract is like a State Purchase Contract except that it is established for one department or part of a department (the sole entity) to use.
Standing Offer Arrangement	means a formalised arrangement for potential suppliers to provide goods, works and/or services often at pre-arranged prices, and under set terms and conditions, when and if required.
State Purchase Contract	means a standing offer arrangement for the whole of the Victorian government for commonly used goods and services, which are established when value for money can best be achieved through aggregating demand.
supplier	all types of entities that supply or propose to supply goods, services, or works, including construction works and services, to a Victorian Government agency, with the exception of; <ul style="list-style-type: none"> • agencies (within the meaning of the code); or • public entities that provide goods, services or works for essential services related to the supply of electricity, natural gas, water, wastewater, or telecommunications.
threshold procurement contract	a contract between a supplier and a Victorian Government agency with a value of \$1 million but less than \$20 million (exclusive of GST).

APPENDIX 2: Information to be provided in application for a pre-assessment certificate

1. Applicant details

This section of the application form requires the personal details, job title, contact details, total value of all contracts held with the Victorian Government at the time of application, and details of the individual's capacity within the organisation to make the application.

2. Business details

This section of the application form requests information about your organisation. This assists the FJC Unit to identify the legal entity that is applying for a pre-assessment certificate. The details are necessary to confirm the identity of the legal entity and the status of that entity and will ensure that multiple applications are not received from the same legal entity.

Question	Explanatory notes
1. Australian Business Number	If you do not have an ABN, contact the FJC Unit.
2. Business structure	Once you supply your ABN, the responses to 'Full legal name', 'Business Structure' and 'ACN (if applicable)' will be auto filled, drawing on information from the Australian Business Register.
Full legal name	
Australian Company Number – ACN (if applicable)	You must verify that these details are correct, once these detailed have been auto filled.
3. For companies - names and details of all company directors	Includes full legal names of each director and their Australian Business Registry Services (ABRS) issued director identification number.
4. Business name	This is required to understand your trading name and identity.
5. Website address	This is further contextual organisation information.
6. Approximate number of full-time employees	Full Time Equivalent (FTE) is based on 38 hours per week. This estimate should take into account all full-time, part-time and casual employees.
7. Whether you are registered with WorkSafe Victoria or equivalent Federal or State WorkCover/regulator	In nearly all circumstances, if you have any employees, you are required to be registered with a regulator that provides WorkCover insurance in the relevant State or Territory.
8. Relevant Licences & Registrations	Suppliers and businesses must hold all licences and/or registrations related to employment, industrial relations and workplace health and safety laws as are required for their relevant industry.

UPLOADS

9. Corporate Governance Structure	You will be required to upload documents to show your corporate structure. In addition, you may be required to provide evidence of incorporation as a company or organisation operation, or an extract from a relevant register.
------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

3. Employer’s compliance history with workplace laws

This section of the application asks you to disclose whether the organisation has had any adverse rulings or enforceable undertakings in the past three years, in any Australian jurisdiction.

You are required to only report on adverse rulings and enforceable undertakings that relate to any breaches of employment, industrial relations or workplace health and safety law.

Question	Explanatory Notes
<p>1. Who issued the adverse ruling or made the enforceable undertaking?</p>	<p>That is, which tribunal, court, commission or other entity made the ruling or which regulator entered into the enforceable undertaking with you.</p> <p>The drop-down menu lists Commonwealth, Victorian and equivalent State or Territory authorities. If the relevant authority is not listed, select 'other' and specify the name of the authority or other entity.</p>
<p>2. What is the decision date of the adverse ruling or enforceable undertaking?</p>	<p>This is the date the decision was handed down or signed. It may also be referred to as the 'outcome date'.</p>
<p>3. Case or reference number of the adverse ruling or enforceable undertaking</p>	<p>This can be found by reference to the decision. For example, in the case of decisions made by the Fair Work Commission, this is referred to as the 'matter number'.</p> <p>Note that some enforceable undertakings (e.g., made by Fair Work Ombudsman) do not provide reference numbers.</p> <p>If you do not have a matter or case reference number, respond to this question with a "N/A".</p>
<p>4. Insert the weblink to adverse ruling or enforceable undertaking</p>	<p>Some adverse rulings and enforceable undertakings are not publicly available via a link.</p> <p>If you wish to attach a copy of the adverse ruling or enforceable undertaking, copy the link here. Alternatively, you may wish to upload the document.</p>
<p>5. What was the adverse ruling or enforceable undertaking about?</p>	<p>In 5000 characters or less, summarise what the adverse ruling or enforceable undertaking was about – that is:</p> <ul style="list-style-type: none"> • What was the type of matter (e.g. unfair dismissal, anti-bullying, failure to provide a safe workplace, etc) • Describe what caused the conduct that led to the adverse ruling or enforceable undertaking. That is, how and why did the conduct happen? • How did the incident come to light? (e.g., incident report, whistle-blower, formal complaint, self-reported) • Has the conduct occurred before? • What was the outcome of the decision? That is, what did the decision maker find and what they required you to do?

OFFICIAL

Question	Explanatory Notes
<p>6. What has the organisation done to rectify any conduct or alleged conduct reflected in the Adverse Ruling or Enforceable Undertaking?</p>	<p>In 5000 characters or less, summarise:</p> <ul style="list-style-type: none"> • How you responded to the adverse ruling or enforceable undertaking, particularly in terms of your response to the worker or workers affected by the conduct. <p>Examples include:</p> <ul style="list-style-type: none"> • Support provided to affected employees (e.g. Employee Assistance Program) • Financial compensation • Training • Internal investigation • Disciplinary action • Communication about the breach (e.g., notification to regulators and government agencies, communication with staff, clients, shareholders and others affected).
<p>7. What has the organisation done to ensure that the incident leading to the Adverse Ruling or Enforceable Undertaking does not re-occur?</p>	<p>In 5000 characters or less, summarise what you have done to ensure that this incident, and other incidents of this type, do not reoccur in the future.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Changes to systems, policies or processes • Staff training and development • Revised business or operational models • Increased risk management and compliance efforts • Changes to business model • Investment in new technology or machinery • Improvement plans • Evidence that conditions of enforceable undertaking have been met.
<p>8. Provide details of any Provisional Improvement Notice issued to the organisation by a workplace regulator in the last 3 years.</p>	<p>You will be required to answer whether your business has received a Provisional Improvement Notice (PINs) due to a contravention of the Occupational Health & Safety Act 2004 (or equivalent) in the last 3 years.</p> <p>You only need to include Provisional Improvement Notices that were not subsequently cancelled by a WorkSafe Victoria Inspector (or equivalent). For further information, see https://www.worksafe.vic.gov.au/provisional-improvement-notices-and-direction-cease-work</p>
<p>9. Further details</p>	<p>Additional space (up to 5000 characters) is provided to disclose any further information you would like considered as part of your application.</p>
<p>10. Supporting documents</p>	<p>You can attach documents to demonstrate what actions you have taken, such as improvement plans or policies/procedures.</p>

APPENDIX 3:

Fair Job Code standards

Suppliers seeking to enter into threshold procurement contracts must comply with standard 1 of the code.

Suppliers seeking to enter into high value procurement contracts and businesses seeking to apply for significant business expansion grants must comply with all of the standards under the code.

Suppliers must only enter into a subcontracting arrangement with significant subcontractors that hold a pre-assessment certificate, unless the value of the subcontract is less than \$1 million (exclusive of GST).

Whereas the pre-assessment certificate application focuses on compliance with standard 1 of the code, the Fair Jobs Code plan focuses on compliance with standards 2 to 5 of the code.

A Fair Jobs Code plan, which is required to be submitted to Victorian Government agencies, sets out how a supplier or business will address industrial relations, occupational health and safety requirements and commitments and standards as required by the code.

The standards apply only to the extent that they are not inconsistent with Commonwealth or State laws.

Standard 1 of the code:

Compliance with applicable employment, industrial relations and workplace health and safety obligations.

As part of the pre-assessment certificate application process, the FJC Unit will review information about the applicant's compliance with all applicable employment, industrial relations and workplace health and safety laws and the regulations made under any of those laws.

This requires a supplier or business to demonstrate in its application that it has complied with all applicable employment, industrial relations and workplace/occupational health and safety obligations.

For suppliers and businesses in Victoria, the applicable laws (including Commonwealth laws) include:

- *Fair Work Act 2009* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)
- *Wage Theft Act 2020* (Vic)
- *Long Service Benefits Portability Act 2018* (Vic)
- *Labour Hire Licensing Act 2018* (Vic)
- *Superannuation Guarantee (Administration) Act 1992* (Cth)
- *Long Service Leave Act 2018* (Vic)
- *Construction Industry Long Service Leave Act 1997* (Vic)
- *Child Employment Act 2003* (Vic)
- *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)
- All applicable State and Commonwealth anti-discrimination and equal opportunity laws.

Suppliers and businesses must also comply with any regulations or instruments made under any of the Acts listed above.

Suppliers and businesses must hold all licences and/or registrations related to employment, industrial relations and workplace health and safety laws as are required for their relevant industry.

If the organisation operates outside of Victoria, it must demonstrate that it complies with the equivalent applicable laws and regulations in other States and Territories of Australia:

OFFICIAL

Victorian law	Other States and Territories
<i>Occupational Health and Safety Act 2004 (Vic)</i>	<ul style="list-style-type: none"> • <i>Work Health and Safety Act 2011 (NSW)</i> • <i>Work Health and Safety Act 2011 (Qld)</i> • <i>Occupational Safety and Health Act 1984 (WA)</i> • <i>Work Health and Safety Act 2012 (SA)</i> • <i>Work Health and Safety Act 2012 (Tas)</i> • <i>Work Health and Safety (National Uniform Legislation) Act 2011 (NT)</i> • <i>Work Health and Safety Act 2011 (ACT)</i> • <i>Work Health and Safety Act 2011 (Cth)</i>
<i>Wage Theft Act 2020 (Vic)</i>	<ul style="list-style-type: none"> • <i>Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 (Qld)</i>
<i>Long Service Leave Portability Act 2018 (Vic)</i>	<ul style="list-style-type: none"> • <i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 (NSW)</i> • <i>Portable Long Service Leave Act 2005 (Qld)</i> • <i>Construction Industry Portable Paid Long Service Leave Act 1985 (WA)</i> • <i>Construction Industry Long Service Leave Act 1987 (SA)</i> • <i>Construction Industry (Long Service) Act 1997 (Tas)</i> • <i>Long Service Leave (Portable Schemes) Act 2009 (ACT)</i> • <i>Construction Industry Long Service Leave and Benefits Act 2005 (NT)</i>
<i>Labour Hire Licensing Act 2018 (Vic)</i>	<ul style="list-style-type: none"> • <i>Labour Hire Licensing Act 2017 (Qld)</i> • <i>Labour Hire Licensing Act 2017 (SA)</i> • <i>Labour Hire Licensing Act 2020 (ACT)</i>

Standard 2:

Promote secure employment and job security

Suppliers and businesses can demonstrate compliance with standard 2 of the code by providing evidence in their Fair Jobs Code plan that they have:

- endeavoured to engage workers directly and on a permanent basis wherever possible
- only entered into arrangements for the provision of labour hire services with a provider who is licensed under the *Labour Hire Licensing Act 2018 (Vic)*, and
- ensured employees' terms and conditions of employment comply with legal obligations under Australian immigration and migration law and any conditions of the employee's working visa
- reflected secure employment arrangements in their organisational policies, and
- policies, procedures, plans and/or systems in place to ensure that they do not knowingly or recklessly misrepresent an employment relationship or a proposed employment arrangement as an independent contracting arrangement.

Standard 3:

Foster cooperative and constructive relationships between employers, employees and their representatives

Suppliers and businesses can demonstrate compliance with standard 3 of the code by providing evidence in their Fair Jobs Code plan that they have:

- allowed employees to actively participate in and be represented by the industrial organisation or association of the employees' choice, subject to applicable laws
- strived to make reasonable allowances for employees and bargaining representatives to participate in enterprise agreement negotiations
- processes in place to consult with employees and employees' representatives about major workplace changes that are likely to have a significant effect on the employees, subject to applicable laws
- subject to applicable laws, processes in place that allow all employees the opportunity to attend meetings with union, health and safety or employee representatives, and access to noticeboards, email or other communication facilities to facilitate communication between workers and/or employee representatives regarding work matter, and
- recognised validly elected union workplace delegates or employee representatives and have processes in place that allow communication between employees and their representatives subject to requirements under applicable laws.

Standard 4:

Foster workplace equity and diversity

Suppliers and businesses can demonstrate compliance with standard 4 of the code by providing evidence in their Fair Jobs Code plan that they have:

- complied with anti-discrimination and equal opportunity laws, and
- demonstrated a commitment to equity and diversity in their organisational practices.

Standard 5:

Promote supply chain compliance

Suppliers and businesses can demonstrate compliance with standard 5 of the code by providing evidence in their Fair Jobs Code plan that they have taken reasonable steps to ensure that direct subcontractors in relation to a high value procurement contract or significant business expansion grant, comply with all applicable employment, industrial relations and workplace health and safety obligations.

Fair Jobs Code



This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication. While every effort has been made to ensure the currency, accuracy or completeness of the content we endeavour to keep the content relevant and up to date and reserve the right to make changes as require. The Victorian Government, authors and presenters do not accept any liability to any person for the information (or the use of the information) which is provided or referred to in the report.

