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Fair Jobs Code

Fair Jobs Code Plan

Guidelines for Suppliers
and Businesses

1 September 2024



WHAT IS THE FAIR JOBS CODE?

The Fair Jobs Code (code) aims to encourage and reward businesses and suppliers that comply with industrial relations, employment and occupational health and safety laws, and to promote Fair Jobs Code standards (FJC standards).

These guidelines explain how to submit a Fair Jobs Code plan (FJC plan) or Fair Jobs Code plan addendum (FJC plan addendum).

BACKGROUND

The code came into operation on 1 December 2022 and revisions to the code became operative on 1 September 2024.

WHAT IS A FAIR JOBS CODE PLAN?

A FJC plan is completed by a supplier or business to demonstrate that it meets the FJC standards including:

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

WHO NEEDS TO COMPLETE A FAIR JOBS CODE PLAN?

In addition to holding a pre-assessment certificate a FJC plan must be submitted by:

- a supplier that tenders for Victorian Government contract that is valued at \$20 million or more exclusive of GST (*high value procurement contract*)
- a business that enters into a Victorian Government grant agreement that is valued at \$500,000 or more exclusive of GST and where a key milestone is to increase or retain the number of employees engaged by the business (*significant business expansion grant*).

Construction suppliers should complete a FJC plan addendum (instead of a FJC plan). The FJC plan addendum takes into account other construction procurement requirements.

HOW TO SUBMIT A FAIR JOBS CODE PLAN OR FAIR JOBS CODE PLAN ADDENDUM

The prescribed template to submit a FJC plan can be accessed via buyingfor.vic.gov.au/prepare-fair-jobs-code-plan.

Construction suppliers should use the FJC plan addendum template available at buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses.

FOR MORE INFORMATION

For more information about the code, visit buyingfor.vic.gov.au/fair-jobs-code.

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1. Guidelines issued by the Minister

- 1.1 These guidelines are issued by the Minister for Industry and Advanced Manufacturing to assist suppliers and businesses who are required to submit a Fair Jobs Code plan (FJC plan) or a Fair Jobs Code plan addendum (FJC plan addendum).
- 1.2 These guidelines explain who needs to submit a FJC plan or a FJC plan addendum under the Fair Jobs Code (code) and when and how to do it.
- 1.3 These guidelines may be updated from time to time to reflect any policy or legislative changes that may arise during the code's implementation. To ensure that you are using the latest version of the guidelines, go to: buyingfor.vic.gov.au/prepare-fair-jobs-code-plan.
- 1.4 These guidelines should be read in conjunction with the code and the FJC plan and FJC plan addendum templates that are available at buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses.

2. Fair Jobs Code

- 2.1 The introduction of the Fair Jobs Code (code) demonstrates the Victorian Government's commitment to ensuring that suppliers and businesses are recognised for their commitment to treating workers fairly. The code applies to:
 - a. *Suppliers* tendering for *threshold procurement contracts* (contracts with a value of \$1 million but less than \$20 million exclusive of GST)
 - b. *Suppliers* tendering for *high value procurement contracts* (contracts with a value of \$20 million or more exclusive of GST)
 - c. *Businesses* seeking to be considered for *significant business expansion grants* (grants with a value of \$500,000 or more exclusive of GST where the key milestones under the grant agreement specifies that the business will increase or retain the number of employees engaged by the business).
- 2.2 By introducing the code, the Government aims to encourage suppliers and businesses who have a history of compliance with industrial relations (IR) and occupational health and safety (OHS) laws and who support the Fair Jobs Code standards (FJC standards) including promotion of job security and secure employment.
- 2.3 The code requires that:
 - a. Suppliers tendering for a *threshold procurement contract* or *high value procurement contract* and businesses applying for a *significant business expansion grant* must hold a valid *Fair Jobs Code pre-assessment certificate* (certificate)
 - b. All suppliers on standing offer arrangements including state purchase contracts, sole entity purchase contracts, and supplier panels and registers must hold a certificate
 - c. In addition, suppliers tendering for *high value procurement contracts* and businesses that enter into a *significant business expansion grant* agreement will be required to submit a *Fair Jobs Code plan* (FJC plan) or *Fair Jobs Code plan addendum* (FJC plan addendum) in relation to the specific tender or grant.
- 2.4 These guidelines explain who needs to submit a FJC plan or FJC plan addendum under the code and when and how to do it.
- 2.5 For guidelines on pre-assessment certificates, go to buyingfor.vic.gov.au/fair-jobs-code-guidelines-suppliers-and-businesses.
- 2.6 The code supports existing requirements for government contracts and grants. Information on these is available at buyingfor.vic.gov.au/fair-jobs-code.

3. Fair Jobs Code plan

- 3.1 The FJC plan is for a supplier or business to clearly set out how it intends to implement the code both in practice and in principle and how it will meet the FJC standards.
- 3.2 There are prescribed template's for the FJC plan, which can be downloaded at buyingfor.vic.gov.au/prepare-fair-jobs-code-plan.
- 3.3 Where a construction supplier is required to submit an Industrial Relations Plan under the Instructions for Public Construction Procurement in Victoria and Direction under Part 4 of the *Project Development and Construction Management Act 1994 (Vic)* (PD & CM Act), the supplier will be required to submit FJC plan addendum using the FJC plan addendum template instead of the FJC plan template (see below at Section 6).
- 3.4 The code requires that a FJC plan or FJC plan addendum must be submitted to the relevant agency when:
- a supplier submits a tender for a *high value procurement contract*
 - a business enters into a *significant business expansion grant* agreement.
- 3.5 The code includes provisions that aim to encourage and reward compliance with IR and OHS laws and with the FJC standards.
- 3.6 A supplier or business that is required to submit a FJC plan/ FJC plan addendum to an agency will be required to demonstrate it meets the FJC standards.

The FJC standards are:

- Standard 1:** Comply with all applicable employment, industrial relations and workplace health and safety obligations.
- Standard 2:** Promote secure employment and job security.
- Standard 3:** Foster cooperative and constructive relationships between employers, employees and their representatives.
- Standard 4:** Foster workplace equity and diversity.
- Standard 5:** Promote supply chain compliance.

For details on each standard see Appendix 2 of this guide and Section 6 of the code.

4. How to submit a FJC plan

- 4.1 A prescribed FJC plan template has been developed setting out the requirements of the FJC plan and is available at buyingfor.vic.gov.au/prepare-fair-jobs-code-plan.
- 4.2 Construction suppliers that are required to submit an Industrial Relations Plan under the *Project Development and Construction Management Act 1994 (Vic)* are required to submit a FJC plan addendum instead of a full FJC plan (see Section 6). The addendum plan template is available at buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses.

5. When to submit a FJC plan

- 5.1 A new FJC plan must be submitted to the relevant agency for each new *high value procurement* tender or significant business expansion grant that an organisation enters into.

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For tenders to supply:

- 5.2 A prospective supplier will be required to submit the FJC plan at the same time as submitting a formal tender submission.
- 5.3 If a prospective supplier does not provide a completed FJC plan at the time of tender submission it will be excluded from the tender process.
- 5.4 If a tender is successful, the commitments made in the FJC plan will form part of the contract and be binding on the supplier.

For grant recipients:

- 5.5 A business must submit a FJC plan within 12 months of entering into a grant agreement for a significant business expansion grant.
- 5.6 The timing of the FJC plan submission will be determined by the agency and specified in the grant agreement, with the agency to take into account whether the grant recipient:
 - a. has an existing presence in Australia
 - b. is significantly upscaling its presence in Australia as a result of the grant.
- 5.7 The commitments made in the FJC plan will form part of a grant agreement and be binding on the business.
- 5.8 If a business does not submit the FJC plan within the timeframe required, this may constitute a breach of the grant agreement and could impact payments or result in other consequences, including termination of the grant agreement.

6. Fair Jobs Code plan addendum

- 6.1 Where a prospective construction supplier is required to submit an Industrial Relations Plan under the Instructions for Public Construction Procurement in Victoria and Direction under Part 4 of the *Project Development and Construction Management Act 1994 (Vic)* (PD & CM Act) the prospective supplier will be required to submit a FJC plan addendum using the FJC plan addendum template instead of the FJC plan template.
- 6.2 The FJC plan addendum template does not include sections of the code that duplicate requirements under the PD & CM Act. In particular, the FJC addendum plan template does not require prospective suppliers to outline how it will meet certain FJC standards, as commitments to such FJC standards are satisfied under the Ministerial Directions for Public Construction Procurement in Victoria.
- 6.3 The FJC plan addendum template can be found at buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses.
- 6.4 A new FJC plan addendum must be submitted to the relevant agency each time a prospective supplier submits a tender submission at the time of tender submission or as otherwise specified by the agency.
- 6.5 If a prospective supplier does not provide a completed FJC plan addendum at the time of tender submission it will be excluded from the tender process.
- 6.6 If a tender is successful, the commitments in the FJC plan addendum will form part of a contract and be binding on the supplier.

7. What information is needed?

- 7.1 Each section of the prescribed FJC plan or FJC plan addendum template requires information to demonstrate FJC standards will be met (Appendix 2 below).

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- 7.2 A FJC plan/ FJC plan addendum must contain quantitative and measurable commitments focused on real and positive job outcomes that are consistent with the aims and objectives of the code.
- 7.3 Further details about required information are set out in the FJC plan template and the FJC plan addendum template.
- 7.4 The relevant agency will provide information on requirements to submit a FJC plan/FJC plan addendum.

8. How will the FJC plan or FJC plan addendum be reviewed?

- 8.1 The relevant agency is responsible for verifying and reviewing a FJC plan or FJC plan addendum.
- 8.2 The relevant agency will verify that a FJC plan/ FJC plan addendum has been completed on the prescribed template and that a response to demonstrate how each of the FJC standards will be met has been provided.
- 8.3 Agencies may use their discretion to determine the relevance of information provided in the FJC plan/FJC plan addendum, recognising each contract/grant agreement may have a different context and focus. For example, an agency may be particularly interested in supply chain compliance (standard 5) if the contract is with a head supplier that covers many subcontractors.

9. Reporting on the FJC plan and FJC plan addendum outcomes

- 9.1 Commitments made in the FJC plan/ FJC plan addendum are binding and will form part of the contract/grant agreement. The relevant agency will monitor the commitments and undertakings listed in the contract/grant agreement.
- 9.2 Delivery of the FJC plan or FJC plan addendum outcomes by the supplier or business will be monitored by the relevant agency.
- 9.3 The relevant agency will provide details of the FJC plan or FJC plan addendum to the FJC Unit once the plan is agreed and binding on the supplier or business.
- 9.4 Where a supplier or business enters into a contract/grant agreement, it will be required to:
 - a. agree to regular reporting to the relevant agency in relation to the matters set out in the FJC plan/FJC plan addendum and the implementation of the FJC plan/FJC plan addendum over the life of the contract or grant agreement
 - b. participate in audits, review and enquiries in relation to the FJC plan/FJC plan addendum, as required.

10. General complaints

- 10.1 General complaints about an action or service provided by the FJC Unit, can be made at djsir.vic.gov.au/about-us/contact-us/complaints-form.
- 10.2 Complaints will be managed in accordance with Department of Jobs, Skills, Industry and Regions (DJSIR) policies and procedures (with any necessary modifications) and in line with the *Victorian Ombudsman's Complaint Good Practice Guide for Public Sector Agencies*.
- 10.3 The FJC Unit will only use or disclose information provided by a complainant for the purpose of:

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- a. assessing and responding to the complaint
- b. assessing the implications of the complaint for a supplier or business
- c. reporting on the operation of the code and the FJC Unit, to the extent practicable, in a de-identified form
- d. providing information to the Minister or the Local Jobs First Commissioner, including any systemic issues or trends identified
- e. requirement by law.

11. Relationship with code, guidelines and commonwealth and state laws and policies

- 11.1 If there is any inconsistency between these guidelines and the code, the code will prevail.
- 11.2 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.
- 11.3 The code or the submission of a FJC plan/plan addendum does not remove the requirements for suppliers or businesses to undergo assessments for other mandatory government pre-qualification schemes and approved registers.
- 11.4 The FJC Unit will not duplicate the legislated responsibility of regulators, such as the Fair Work Ombudsman, the Fair Work Commission and WorkSafe Victoria, nor will it replace the function of Victorian Government agencies and their contract managers.
- 11.5 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:
 - a. *The Supplier Code of Conduct*
 - b. *The Local Jobs First Policy*
 - c. *The Social Procurement Framework*
 - d. *The Building Equality Policy*
 - e. *The Victorian Government Call Centre Code*
- 11.6 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.

12. Governance

- 12.1 **Fair Jobs Code Unit**
 - a. The FJC Unit is responsible for implementation of the code. This includes:
 - i. issuing certificates and monitoring compliance with the code by certificate holders
 - ii. engaging with agencies, as required, to monitor FJC plans commitments and FJC plan implementation.
 - b. You may contact the FJC Unit:
 - i. to self-report a breach of the code
 - ii. for information, advice and support on meeting the requirements of the code

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

12.2 Victorian government agencies

Agencies are responsible for:

- a. incorporating the requirements of the code and any model clauses into relevant procurement and grant documentation and contracts/agreements
- b. notifying the FJC Unit of self-reported supplier and business non-compliance with the code
- c. reviewing FJC plans/FJC plan addendums and monitoring their delivery throughout the term of the contract.

12.3 Local Jobs First Commissioner

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

13. Tools and support

13.1 For more information about the code, visit buyingfor.vic.gov.au/fair-jobs-code.

13.2 You can also contact the FJC Unit at:
Fair Jobs Code Unit
fairjobscodes@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	means 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 is awarded a significant business expansion grant from an agency.
certificate	pre-assessment certificate.
code	the Victorian Fair Jobs Code.
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.
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.
FJC plan addendum	each bidder's industrial relations and occupational health and safety plan addendum as required by the FJC.
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 Industry and Advanced Manufacturing.
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.

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Term	Definition
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 increase or retain 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).
supplier	all types of entities (other than agencies) that supply or propose to supply goods, services, or works, including construction works and services, to a Victorian Government agency, with the exception of 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 or more but less than \$20 million (exclusive of GST).

APPENDIX 2: 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 FJC standards.

Where the pre-assessment certificate application focuses on compliance with FJC standard 1, the FJC plan/FJC plan addendum focuses on compliance with FJC standards 2 to 5.

A FJC plan/ FJC plan addendum, is required to be submitted to the relevant Victorian government agency, and sets out how the supplier or business will address IR, OHS requirements and commitments and standards as required by the code.

The FJC 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, IR and OHS 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, IR and OHS laws.

For suppliers and businesses in Victoria, the applicable laws include:

- *Fair Work Act 2009* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)
- *Long Service Benefits Portability Act 2018* (Vic)
- *Wage Theft Act 2020* (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 hold all licences and/or registrations related to employment, industrial relations and workplace health and safety laws as are required for their relevant industry.

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

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If the supplier or business operates outside of Victoria, it must demonstrate that it complies with the equivalent applicable laws and regulations in other states and territories of Australia including but not limited to the following:

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 FJC plan/FJC plan addendum 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)*
- 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
- 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.

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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 FJC plan/FJC plan addendum 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
- 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 matters, subject to applicable laws
- 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 FJC plan/FJC plan addendum that they have:

- complied with anti-discrimination and equal opportunity laws
- 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 FJC plan/FJC plan addendum 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, IR and OHS obligations
- in relation to a *high value procurement contract*, only enter into a subcontracting arrangement with subcontractors that also have a pre-assessment certificate, unless the value of the subcontract is less than \$1 million (exclusive of GST).

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