



**LOCAL  
GOVERNMENT  
PROCUREMENT**

**LOCAL GOVERNMENT PROCUREMENT PTY LTD**

**CODE OF CONDUCT AND CONFLICT OF  
INTEREST POLICY**

# Code of Conduct and Conflict of Interest Policy

This Code of Conduct outlines the minimum conduct obligations for LGP Board members and staff, consultants and agents of LGP ('LGP Officers') in carrying out their LGP functions. As these functions relate to procurement that would otherwise be undertaken by councils, the LGP Code of Conduct ('Code of Conduct') imposes standards of behaviour similar to those applying to council officials. Where appropriate, the provisions of the "Model Code of Conduct for Local Councils in NSW", Office of Local Government, have been incorporated into this Code of Conduct.

LGP Officers must comply with the applicable provisions of the Code of Conduct. It is the personal responsibility of each individual LGP Officer to comply with the standards in the Code of Conduct, and regularly review their personal circumstances with this in mind.

Allegations of breaches of the Code of Conduct may be investigated and reported to the Internal Ombudsman in accordance with the LGP Complaints Policy ('Complaints Policy'). Where there is a finding of failure to comply with an applicable requirement of the Code of Conduct, any of the sanctions outlined under the Complaints Policy may be imposed.

## **Purpose of the Code of Conduct**

The Code of Conduct has been developed to assist LGP Officers:

- understand the standards of conduct that are expected of them;
- enable them to act honestly and exercise a reasonable degree of care and diligence; and
- act in a way that enhances confidence in the integrity of LGP and local government in NSW.

## **Key Principles**

The Code of Conduct is based on the following key principles:

- **Integrity**

LGP Officers must not place themselves under any financial or other obligations to any individual or organisation that may reasonably be thought to influence them in the performance of their duties.

- **Accountability**

LGP Officers are accountable to the LGP Board, the LGP Partnership and council customers for their decisions and actions, and must consider issues on their merits, taking into account the views of others. This means recording reasons for decisions, submitting to scrutiny, keeping proper records and establishing audit trails.

- **Honesty**

LGP Officers have a duty to act honestly. LGP Officers must declare any private interests relating to their duties as an LGP Officer and take steps to resolve any conflicts. This means observing the Code of Conduct and any applicable probity plan, following the letter and spirit of other LGP policies, codes, guidelines and procedures and fully disclosing actual, potential or reasonably perceived conflicts of interests.

- **Respect**

LGP Officers must treat others with respect at all times. This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in the decision-making process.

### **General Conduct Obligations**

LGP Officers must avoid behaviour that:

- contravenes any LGP policy, code, guideline, procedure or other, relevant administrative requirement;
- is detrimental to the objectives of LGP's Constitution;
- is improper or unethical;
- causes, comprises or involves intimidation, harassment or verbal abuse;
- causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment.

LGP Officers must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions. LGP Officers must behave in accordance with LGP's corporate values and treat others with respect at all times.

### **Fairness and equity**

- LGP Officers have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established LGP procedures, in a non-discriminatory manner.

- LGP Officers must take all relevant facts known to themselves, or that they should be reasonably aware of, into consideration and have regard to the particular merits of each situation. LGP Officers must not take irrelevant matters or circumstances into consideration when making decisions.

### **Harassment and discrimination**

- LGP Officers must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

### **Guide to ethical decision-making**

If an LGP Officer is unsure about the ethical issues around an action or decision they are about to take, they should consider these five points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with the LGP's objectives as outlined in its Constitution, the Code of Conduct, LGP's corporate values, any applicable probity plan or any other policy, code, guideline or procedure applying to the action or decision?
- What will the outcome be for the LGP Officer, other LGP Officers, LGP as an organisation and any other relevant parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at LGP or council customers' expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

LGP Officers have the right to question any instruction or direction given to them which they think may be unethical or unlawful. If an LGP Officer is uncertain about an action or decision, they may need to seek advice from other people. This includes their supervisor or trusted senior LGP Officer, Chairperson of the LGP Board, or the Internal Ombudsman.

## **Conflict of Interest**

### **Pecuniary and non-pecuniary conflict of interests**

A conflict of interest exists when an LGP Officer could be influenced, or a reasonable person would perceive that they could be influenced by a personal interest when carrying out their professional duty as an LGP Officer.

- LGP Officers must appropriately resolve any conflict or incompatibility between their private or personal interests and the impartial performance of their professional duties.
- Any conflict between their interests and those of LGP must be resolved to the satisfaction of LGP. When considering whether or not an LGP Officer has a conflict of interest, it is always important to think about how others would view their situation.
- It is essential that an LGP Officer properly addresses conflict of interest issues that may arise. LGP Officers must:
  - try to understand the concept and practical implications of conflict of interest issues;
  - accept that failure to resolve an actual, potential or reasonably perceived conflict of interest is unacceptable as an LGP Officer; and
  - take timely and appropriate action to avoid, or if not, to disclose any actual, potential or reasonably perceived conflict of interest.
- Perceptions of a conflict of interest are as important as actual or potential conflict of interests. The onus is on the LGP Officer to identify a conflict of interest, whether perceived or real, and take the appropriate action to resolve the conflict in favour of their professional duty.
- Where necessary, an LGP Officer must disclose an interest promptly, fully and in writing. If a disclosure is made at an LGP Board or Tender Evaluation Panel meeting, or at a formal tender/contract negotiation meeting, both the disclosure and nature of an interest must be recorded in the minutes.
- If an LGP Officer is in doubt as to whether a conflict of interest exists, they should seek legal or other appropriate advice.

A conflict of interest can be pecuniary or non-pecuniary:

**Pecuniary** – An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with

whom the person is associated.

**Non-pecuniary** – A private or personal interest the LGP Officer has that does not amount to a pecuniary interest (for example, a friendship, membership of an association, society or trade union, or involvement or interest in an activity and may include an interest of a financial nature).

- LGP Officers are required to complete and submit to LGP administration an initial and an annual written "Probity Advice to Local Government Procurement Authorised Officers and Staff" (Annual Probity Declaration) or alternatively, a Declaration of Confidentiality and Interest form, as required. Within this form, the LGP Officer must identify any actual, potential or reasonably perceived conflict of interest that may potentially be in conflict with their professional duties and capacity as an LGP Officer. If the LGP Officer becomes aware of any actual, potential or reasonably perceived conflict of interest, they must update their Annual Probity Declaration and resubmit it to LGP administration.
- LGP Board members must disclose any interest in a matter to be considered at a meeting, leave the meeting, and be out of sight of the meeting and not participate in discussions or voting on the matter.
- Where an LGP Officer is a member of staff of LGP, they must disclose to the Chief Executive Officer (CEO) the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable.
- If an LGP Officer has a non-pecuniary conflict of interest, the LGP Officer must disclose the nature of the conflict. If this is in a meeting, the LGP Officer must disclose this as soon as practicable to the Chairperson of the meeting.
- If an LGP Officer has declared a non-pecuniary conflict of interest the LGP Officer has a broad range of options for managing the conflict. The option the LGP Officer chooses will depend on an assessment of the circumstances of the matter, the nature of their interest and the significance of the issue being dealt with. LGP Officers must deal with a non-pecuniary conflict of interest in at least one of the following ways:
  - It may be appropriate that no action is taken where the potential for conflict is minimal. However, LGP Officers should consider providing an explanation of why they consider a conflict does not exist.
  - Limit involvement if practical (for example, participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising

this option.

- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or relocating the conflicting duties to another officer).
- Have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue (particularly if the LGP Officer has a significant non-pecuniary conflict of interest).
- Include an Independent Person in the process to provide assurance of probity, in accordance with the Complaints Policy.

### **Other Business or Employment**

An LGP Officer who is a member of staff of LGP and is considering outside employment or contract work that relates to the business of LGP or that might conflict with their LGP duties must notify and seek the approval of the CEO in writing.

- Before you engage in outside employment or business you must ensure that it will not:
  - conflict with their duties as an LGP Officer;
  - interfere with their LGP work;
  - involve using confidential information or LGP resources obtained through their work with LGP;
  - require the LGP Officer to work during their LGP working hours; or
  - discredit or disadvantage LGP.

### **Political support**

If an LGP Board member is a councillor, the LGP Board member should note that matters before the LGP Board involving councillor campaign donors may give rise to non-pecuniary conflict of interests.

### **Personal Benefit**

For the purposes of this section, an LGP Board member who is also a councillor should note that a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

### **Gifts or Benefits**

All LGP Officers must declare all gifts of a value of \$50.00 or above in the Gifts Register held by the Head of Tendering & Contracting.

Those LGP Officers involved in a tender process must not accept any gifts, hospitality or other benefits from potential suppliers or organisations relating to that particular tender, either during the tender development phase or through to appointment of a successful tenderer/s.

LGP Officers must not:

- seek or accept a bribe or other improper inducement;
- by virtue of their LGP Officer's position, acquire a personal profit or advantage which has a monetary value, other than one of a nominal or token value;
- seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence the LGP Officer to:
  - act in a particular way (including making a particular decision);
  - fail to act in a particular circumstance; or
  - otherwise deviate from the proper exercise of their official duties.

An LGP Officer may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on their part.

### **Token Gifts & Benefits**

Generally speaking, nominal or token gifts and benefits may include but are not limited to:

- gifts of single bottles of reasonably priced alcohol to individual LGP Officers at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address);
- free or subsidised meals, of a modest nature and/or beverages provided infrequently (and/or reciprocally), that have been arranged primarily for, or in connection with, the discussion of official business;
- free meals, of a modest nature, and/or beverages provided to LGP Officers who formally represent the LGP at work related events such as training, education sessions, workshops;
- refreshments, of a modest nature, provided at conferences where you are a speaker;
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages;
- invitations to appropriate out of hours "cocktail parties" or social functions organised by groups, such as councils, community organisations or professional associations.



## **Gifts of Value**

LGP Officers must:

- never accept an offer of money, regardless of the amount;
- not accept gifts and benefits that have more than a nominal or token value. These include tickets to major sporting events, corporate hospitality at a corporate facility at a sporting venue, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and free training excursions;
- in the event that an LGP Officer receives a gift of more than a nominal or token value in circumstances where it cannot reasonably be refused or returned, the LGP Officer should accept the gift and disclose this promptly to their supervisor, the Chair of the LGP Board or the CEO. LGP Officers must ensure that any gifts received are recorded in a Gift Register;
- avoid a situation in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from the LGP Officer in question or LGP; and
- take all reasonable steps to ensure that their immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

## **Improper and Undue Influence**

LGP Officers must not:

- take advantage of their position to improperly influence other LGP Officers in the performance of their professional duties to secure a private benefit for their themselves or for somebody else;
- take advantage (or seek to take advantage) of their status or position with, or function performed for LGP, in order to obtain an unauthorised or unfair benefit for themselves or for any other person or body.

## **Relationships between LGP Officers**

The LGP Board have the responsibility of directing and controlling the affairs of LGP.

- Board members must:
  - refrain from directing other LGP Officers, other than by giving appropriate direction to the CEO in the performance of LGP's functions by way of

resolution, or by the Chair of the LGP Board exercising any power conferred under the LGP's Constitution;

- refrain from, in any public or private forum, directing or influencing, or attempting to direct or influence, any other LGP Officers in the exercise of the function of their role as LGP Officer;
- refrain from contacting an LGP Officer unless in accordance with procedures governing the interaction of LGP Officers that have been authorised by the CEO;
- not contact or issue instructions to any of the LGP's consultants or agents, including LGP's legal advisors.

### **Obligations of staff**

The LGP CEO is responsible for the efficient and effective operation of LGP's organisation and for ensuring the implementation of the decisions of the LGP Board without delay.

LGP staff have an obligation to:

- give their attention to the business of LGP while on duty;
- ensure that their work is carried out efficiently, economically and effectively;
- carry out lawful directions given by any person having authority to give such directions;
- give effect to the lawful policies, decisions and practices of LGP, whether or not the staff member agrees with or approves of them.

### **Inappropriate interactions**

- The following interactions are inappropriate:
  - LGP Board members approaching staff other than the CEO for information on sensitive or controversial matters;
  - LGP staff approaching LGP Board members directly on individual staffing matters;
  - LGP Board members approaching LGP staff, consultants and agents outside the LGP's building or outside hours of work to discuss LGP business;
  - LGP staff refusing to give information which is available to other LGP Board members to a particular Board member because of the staff member or LGP Board member's political views;
  - LGP Board members being overbearing or threatening to staff;

- LGP Board members directing or pressuring staff in the performance of their work, or recommendations they should make;
- LGP staff providing ad hoc advice to Board members without recording or documenting the interaction;
- LGP Board members approaching staff organisations, for example unions and associations, in relation to staffing matters that relate to individual staff members rather than broader industrial policy issues;
- LGP staff meeting with prospective tenderers alone and outside office hours to discuss tenders;
- LGP Board members attending meetings with other LGP Officers, including legal counsel engaged by LGP and associated with current or proposed legal proceedings, unless permitted to do so by the CEO.

### **Access to Information and LGP Resources**

The following rules apply in respect to LGP Board Members access to information:

- any information that is given to a particular Board member in the performing of their duties must also be available to any other LGP Board member who requests it;
- LGP staff have an obligation to provide full and timely information to Board members about matters that they are dealing with in accordance with LGP procedures;
- LGP Board members have an obligation to properly examine and understand all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter.

### **Use of LGP information**

LGP Officers must:

- protect confidential information;
- only access information needed for LGP business;
- not use confidential information for any non-official purpose;
- only release confidential information if they have authority to do so;
- only use confidential information for the purpose it is intended to be used;
- only release other information in accordance with established LGP policies and procedures and in compliance with relevant legislation;
- not use LGP information for personal purposes; and

- act in accordance with any applicable probity plan.

Confidential information includes any proprietary or commercial-in-confidence information or any information required to be treated as confidential under any applicable probity plan, or any other LGP policy, code, guideline or procedure.

LGP Officers must not:

- use confidential information gained through their office or position for the purpose of securing a private benefit for themselves or for any other person.
- seek or obtain, whether directly or indirectly, any financial benefit or other improper advantage for themselves, or any other person or body, from any information to which you had access in the exercise of their official functions or duties by virtue of their office or position.
- use confidential information with the intention to improperly cause harm or detriment to LGP or any other person or body.

### **Security of information**

LGP Officers must:

- must take care to maintain the integrity and security of confidential documents or information in their possession, or for which they are responsible;
- comply with the *Privacy Act 1988* (Cth) and the *Australian Privacy Principles* (Schedule 1 under the *Privacy Act 1988* (Cth)) when dealing with Personal Information;

(Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.)

### **Use of LGP resources**

LGP Officers must:

- use LGP resources ethically, effectively, efficiently and carefully in the course of their professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate;
- be scrupulous in their use of LGP property, including intellectual property, official

services and facilities and should not permit their misuse by any other person or body;

- avoid any action or situation which could create the impression that LGP property, services or facilities are being improperly used for their own or any other person or body's private benefit or gain;
- not convert any property of LGP for their own use unless properly authorised;
- not use LGP's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

### **Board members' access to LGP buildings**

Board members must not enter staff-only areas of LGP buildings without the approval of the CEO or as provided in any procedures governing the interaction of Board members and staff.

Board members must ensure that when they are within a staff area they are cognisant of potential conflict or pecuniary interest matters, and/or a perception that they may bring influence to bear on staff decisions and should conduct themselves accordingly.

### **Reporting Breaches, Complaints Handling Procedures and Sanctions**

LGP Officers should report suspected breaches of the Code of Conduct to the Internal Ombudsman in accordance with the Complaints Policy;

- where appropriate, the Internal Ombudsman will make enquiries, or cause enquiries to be made, into breaches of the Code of Conduct by LGP Officers in accordance with the Complaints Policy;
- the Internal Ombudsman will report his or her findings to the CEO, Chair of the LGP Board or LGP Board in accordance with the Complaints Policy. The Internal Ombudsman may recommend that the CEO or LGP Board apply any sanctions reasonable in the circumstances;
- where the CEO or the LGP Board finds that an LGP Officer has breached the Code of Conduct, it may decide to apply any of the sanctions provided for in the Complaints Policy;
- if an LGP Officer believes that the Internal Ombudsman has failed to comply with this Code of Conduct, they should report the matter to the CEO, preferably in writing, who will then assess whether the alleged breach is serious enough to report to the LGP Board. The LGP Board may resolve that an independent person of

appropriate standing assess and/or investigate an alleged breach of the Code by the Internal Ombudsman.