Victorian Public Sector Commission

VICTORIA State Government

Recruitment in the public sector

Manage the process of recruitment from start to finish with these best practice guides and resources.

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Best practice recruitment and selection

The Victorian Public Sector Commission (VPSC) provides resources to assist in the recruitment and selection for careers with the Victorian Government.

The toolkit was developed to assist public sector the Victorian Public Service (VPS) and the wider public sector to implement best practice recruitment and selection processes.

The toolkit includes:

- an overview document on best practice, plus information sheets on particular recruitment selection
- templates for processes, and recruitment and selection
- training program documents, including a series of modules with specific learning outcomes covering the recruitment and selection process. The program may be customised to suit specific organisational needs or requirements.

Best practice recruitment and selection methodology and tools

Getting recruitment right

As a line manager, it is your responsibility to recruit the right person for the job.

Job analysis and a well-written position description

As a line manager, it's your responsibility to recruit the right person for the job. By understanding your role and responsibilities in the recruitment and selection process, you can reduce and in most cases eliminate the risk of poor hiring decisions. This is good for your effectiveness as a manager, good for your team and organisation, and good for those you hire.

Why does getting it right matter?

It matters because poor recruitment costs time, money and effort – for you and all involved. The costs can be direct (e.g. advertising, remuneration) or indirect (e.g. performance problems, lower team morale, reduced productivity). Combined, they can add up to 2.5 times the salary of the role.

Poor recruitment takes many forms. If you place an ad that describes a job inaccurately, hire a person who can't handle future work demands or is not a team player, that's poor recruitment. In addition to creating costly problems, situations like this can linger long after the initial appointment is made, causing stress for you and your team.

A robust, well-considered recruitment process means that you're better able to select the best person for a role.

What is this document?

This document is a guide for line managers who are responsible for recruiting. It is intended to complement the Victorian Public Sector Commission's (VPSC) Best

Practice Recruitment and Selection Toolkit, released in 2008.

The tools in this guide aim to promote best practice and minimise risk in Stage 1 of recruitment, which comprises the following:

1. Job analysis
2. Position descriptions

1. Job analysis

What is job analysis?

Job analysis helps you assess whether a role is required and if so, what you want to achieve in filling it.

It assists you in describing the role and the desired outcomes, as well as identifying the knowledge, skills and attributes applicants must have to succeed in the role. Effective job analysis also informs the classification of the role.

Job analysis makes it easier to develop appropriate accountabilities and key selection criteria which then feed into the position description and allow you to develop relevant assessment methods (e.g. interview questions, work sample tests).

Why does job analysis matter?

As a hiring manager it's your responsibility to undertake effective job analysis. Failing to do so, or simply using an old position description means that you run the risk of not reflecting the role accurately and you could end up recruiting the wrong person.

You should regard job analysis as the foundation of the recruitment and selection process. It helps you:

- assess how a role can help your team and organisation achieve future goals
- create a position description that accurately reflects the emerging role
- align the role with your team's work plan

- determine accurate classification of the role
- choose the best selection techniques for the role
- manage the prospective employee's expectations.

Poor job analysis can create problems for you, your team and your organisation. For example:

- You have recruited for yesterday's work, not for the work tasks required tomorrow.
- The new employee leaves disillusioned because the role they applied for isn't the role they're doing.
- Team morale falls and stress increases as you and your team struggle to cope with a new employee who doesn't have the required capabilities.

These frustrations can distract you and your team from achieving your goals. Good job analysis reduces this risk.

A useful tool is the Victorian Public Sector Commission's Victorian Public Employment Capability Framework Guide and Card Set. These identify 43 capabilities commonly needed to perform effectively in various government roles. The capabilities include 17 personal qualities and 26 knowledges and skills. The guide also includes a template for defining specialist expertise requirements.

Action	Notes	Done (tick)
Consider your organisation's current & future operational needs	Discuss your organisation's goals with your manager to consider if the role actually needs to be filled or needs re-design.	
List the objectives of the role	Consider what you want the role to achieve.	
List the key accountabilities of the role	It may help to discuss this with a peer or manager who knows the role and work unit.	
List what the candidate must know to succeed in the role	e.g. knowledge of engineering, law, industrial relations.	
List what the candidate must do to succeed in the role	e.g. design, analyse, write, lead, negotiate, research.	
List personal qualities needed to succeed in the role	e.g. empathy, teamwork, customer service.	
Develop the Key Selection Criteria (KSC) from the knowledge, skills and personal qualities.	For example, if a role requires strong written communication, the KSC might be: able to write emails, letters, reports, briefings and other documents clearly, concisely and accurately.	

2. Position Descriptions

What are Position Descriptions?

A position description (PD) is a compilation of: accountabilities; key selection criteria – the knowledge, skills and personal qualities required; and organisational information. Its main purpose is to inform candidates about the role and promote your organisation as a great place to work.

It should be clear and concise. You don't need to include every conceivable task that might be undertaken, or embellish the role by overstating the tasks. The PD must be relevant to the current role, but also needs to look to the future. The public sector needs

flexible employees who can adapt to changing work.

The PD should avoid jargon, for example: public sector acronyms unfamiliar to private sector candidates may discourage them from applying. Technical terms are fine for roles requiring that expertise. In fact, such terms can be used to screen out unqualified candidates.

It's a good idea, then, to run your draft PD past a peer to ensure candidates will understand exactly what the role involves.

Why are Position Descriptions Important?

A good PD sells a role to those who can do it. It gives candidates enough accurate information to decide if they have what it takes to do the role (and therefore apply). A good PD benefits you and your team because:

It actively encourages applications from people with the potential to be an asset for your organisation now and in the future.

Candidate assessment is more accurate, appropriate and objective.

The successful applicant doesn't get any nasty surprises once they start work.

Action	Notes	Done (tick)
Develop PD	Use the information generated from the job analysis to create the PD, which should include: • header: job title, organisation, location, grade, level; • summary: an overview listing the role's purpose; • critical accountabilities for the role, also known as Key Result Areas (KRAs); • reporting relationships; • Key Selection Criteria (KSC) including any mandatory qualifications or licenses; • opportunities for development and career advancement the role will offer; • organisational statements and values; • any mandatory information, such as equal employment and occupation health and safety statements; and • any checks that an applicant might be required to undertake , such as: a police check, or a working with children check. Ensure the PD gives candidates enough information on the role and your organisation for them to decide if they should apply. Keep the PD unambiguous and jargon free so your target audience understands every word.	
Peer review	Will the target audience understand the PD? Ask someone who knows the role to vet your PD for clarity and relevance to current and future work needs. Ask someone capable of assessing work value to ensure the role is classified appropriately.	

Further Tips to Help You Achieve the Best Possible Outcome

Once you've completed the PD and advertised the role:

Ensure that someone's been nominated to receive the applications and respond to any queries regarding the process. Identify and contact the panel members who will be short-listing and interviewing applicants. Organise your diary to accommodate the short-listing process.Identify any assessment techniques (work sample testing, writing tests, etc.) that you will to use to assess the short-listed applicants.

Once you have completed a short-list:

- Book rooms for interviews and other assessment processes.
- Make sure all panel members have the times in their diaries.
- Ensure the panel members are provided with all the necessary information (applications; interview questions; scoring methodology) for the interview and assessment process.
- Advise short-listed candidates of the time and place of the interview and details of the assessment techniques.
- Determine whether any of the short-listed applicants have special requirements (such as assistance in accessing the building).

Remember – make sure your recruitment and selection process is efficient and professional. Good candidates don't wait around for long.

Mastering the art of interviewing and selection

Mastering the Art of Interviewing and Selection is a guide for any line manager who has to recruit staff.

This guide covers how to:

- prepare for the interview
- conduct the interview
- other assessment techniques
- reference checking
- rate an applicant overall
- make the choice.

Line managers have the responsibility to get the interview and selection process right and to positively represent the organisation as an employer of choice.

A well-managed interview and selection process means that the best person for the role and for the organisation is likely to be selected.

The interview is the most commonly used selection technique and, if used appropriately, is one of the most powerful predictors of work performance of potential employees.

Mastering the Art of Interviewing and Selection: A Manager's Guide to Getting the Interview and Selection Process Right

Guide to hiring with special measures in the public sector

A special measure is a lawful way to try and give an employee or candidate substantive equality.

About this guide

This guide is for public sector employees who want to hire using a special measure.

It helps you make sense of:

- what a special measure is
- how to design a special measures role
- how to advertise a special measures role
- the steps you need to take to create a special measure role

If in doubt, check with your legal and policy teams before you apply a special measure.

Or if you need more information after reading this guide, go to:

- Special Measures: Victorian Equal Opportunity and Human Rights Commission
- Section 12 of the Victorian Equal Opportunity Act

Recruiting people with disability

A guide for the public sector on how to support individuals with disability applying for a role.

About this guide

Recruiting People with Disability is a guide to help line managers in recruiting people with disability to their organisation.

It provides prompts and reminders for line managers who may already have some skills and experience in conducting a recruitment process.

The guide outlines:

- what is disability
- welcoming people with disability into your organisation.
- what are 'reasonable adjustments'
- the best practice recruitment and selection process

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Pre-employment and misconduct screening

Use these guides to help develop and implement pre-employment and misconduct screening in your organisation

Why we do pre-employment and misconduct screening

Pre-employment and misconduct screening is done to verify the identity, integrity and credentials of people who work across the Victorian public sector. It should be completed before a formal offer is made and after a promotion or change in the role of an existing employee.

Victorian public sector employees occupy positions of trust and have access to public resources. Pre-employment screening helps public sector organisations manage risk and maintain trust in the community.

Guide to pre-employment screening

We recommend all public sector organisations align their pre-employment screening policies and procedures with:

- Australian and New Zealand Standard on Employment Screening
- Public Sector Values
- Employment principles and standards

- ### Screening principles

  Use these principles when you develop and apply your pre-employment screening policy

- ### Pre-employment screening and recruitment

  How to make pre-employment screening part of your recruitment process

- ### Role-based risk assessment

  A role-based risk approach to deciding what additional screening checks you need

- ### List of pre-employment screening checks

  A list of the standard screening checks required for most roles

- ### How to respond to negative or incomplete checks

  How to manage issues or concerns that come up in a screening check

Guide to pre-employment misconduct screening

All Victorian public sector organistions are required to screen for misconduct using these policies:

Pre-employment misconduct screening policy for Victorian Public Service executives and non-executives

Pre-employment misconduct screening policy for public entities

- ## About misconduct screening

  Responsibilities and obligations for Victorian Public Service and public entity employers and candidates

- ## How to screen for misconduct

  A step-by-step guide to pre-employment misconduct screening

Guidance for integrity in recruitment

Recruitment decisions in the Victorian public sector must comply with the merit employment principle.

Purpose

Recruitment is the process of finding and hiring the best person to fill a job vacancy in a timely and cost effective manner. The recruitment process includes analysing the inherent requirements of a job, attracting and screening applicants, offering employment to the preferred applicant and getting them on board. Wrong choices can easily be made at any of these stages. This guidance note will help employers to understand and manage the risks inherent in the recruitment process.

Risks

Why is recruitment an important risk to be managed?

Employers want to appoint the best person available to their organisation. They want to do this quickly and with minimal expenditure. If the person is not able to perform the work adequately, takes too long to get up to speed or ultimately leaves the organisation, then productivity and staff morale can be adversely affected.

What types of risk are associated with recruitment?

There are a number of risks that need to be managed, both internally and externally.

Internal risks include:

- The organisation acquires a new function either through machinery of government change or other means, that presents new integrity risks to be managed
- The organisation is large, decentralised and/or geographically dispersed so that HR is unable to sit on all selection panels or give timely advice
- Hiring managers lack recent recruitment experience and don't understand their practical and legal obligations including anti-discrimination and privacy
- The hiring manager creates a job description with a particular person in mind
- The hiring manager gives an unfair advantage to a particular person by having them act in a role for an extended period without first undergoing a competitive process
- Short cuts are taken to recruit someone quickly for a temporary assignment but mean that the market was not adequately tested
- A member of the selection panel does not declare a conflict of interest and advances the interests of an applicant who is a friend, relative or other close associate
- A member of the selection panel unfairly discounts an applicant because of personal bias against them
- The selection panel wrongly assumes that an applicant working for an organisation with a good reputation will necessarily have a good employment history
- The selection panel finds it difficult and time consuming to properly verify the credentials and work history of an applicant, particularly if they have spent a significant time overseas.

External risks include:

- Employees accused of serious misconduct are encouraged to resign rather than be dismissed, possibly leaving an unfinished investigation behind
- Relevant information is not shared between employers, leading to the re-employment of people with questionable work histories
- The applicant falsifies their qualifications, registrations, licenses or employment history to increase their chance of being selected
- The applicant fails to disclose a relevant criminal record or personal association

that would prevent them from performing the inherent requirements of the job

- The applicant's referee does not give an honest assessment of their work performance and conduct
- The applicant's referee falsifies their role or their relationship to the applicant.

Post-employment risks include:

- The new employee is corruptly influenced to make decisions in favour of a third party
- The new employee is a member of a group that is seeking to infiltrate the organisation
- Conflicts of interest associated with a new employee's secondary employment means that they are unable to fulfil their role

How can these risks be mitigated?

Organisations that include recruitment in their risk management system, establish simple, transparent processes and keep a record of decisions taken will be better able to mitigate risks. Random auditing of the organisation's recruitment decisions would highlight any particular problems that need to be addressed through changes to policy or practice.

Recruitment process

How can the organisation help managers to confidently recruit staff?

Although recruitment is a natural part of every manager's role, it is not something that they need to do very often. It is therefore important for the organisation to publish clear, practical policies, step by step instructions and templates on its intranet or other readily accessible place. Examples include the VPSC's Best Practice Recruitment and Selection Toolkit.

Just in time training and refresher courses are better options than a one off approach to skills development. For example, organisations might consider using short videos to help remind managers of what they need to do next. Managers only need the information when they are about to recruit someone. They will not retain this information indefinitely.

Small and centralised organisations might consider having an HR representative on each selection panel. They can guide the manager through the process. Alternatively HR might offer an advisory service to managers so that they can discuss any issues that crop up.

Managers should be encouraged to document their decisions at each stage of the process. This allows the recruitment process to be audited.

What decisions must a hiring manager make when planning to fill a vacancy?

Vacancies are an opportunity for managers to think about the staffing in their team. For example, the job may have changed over time. Its roles and responsibilities, qualifications or classification may have changed. Alternatively, the job may no longer be required on an ongoing basis. It might then be filled by fixed-term, temporary or contract employment. Or the job's responsibilities may be better assigned to other roles in the team. This might be done to become more efficient and streamline work.

Other questions the manager might consider are:

- What are the inherent requirements of the job?
- Does the job require any mandatory qualifications, licenses or registrations to operate?
- Is there a legal requirement for a National Police Check or Working with Children Check?
- Does the job provide services to vulnerable clients, manage significant financial resources or have access to confidential information?
- Would a person's secondary employment in a related industry present a potential conflict of interest?

- Could personal associations compromise a person's ability to perform their role?
- Could the job be filled from within the organisation or should it be advertised more broadly?
- Will it be necessary to temporarily fill the vacancy while recruitment is taking place?
- How can the hiring manager make an objective decision about a job description?

The same role can be performed in different ways depending on the skills and interests of particular individuals. The manager might have a more narrow view of what is required based on how the job was previously performed or their knowledge of a particular person. Describing a job too narrowly can limit its attractiveness to potential applicants and also provide an unfair advantage to the person known to the manager.

Managers can avoid this risk by using objective tools such as the VPSC's Victorian Public Employment Capability Card Set, comparing the vacancy to similar jobs in the organisation or in the same industry and seeking HR advice.

How else can the hiring manager avoid providing an unfair advantage to someone?

Someone who acts in a role for a significant period of time may come to believe they will be appointed to the job when it is finally advertised. To avoid this situation, the manager might choose to fill the vacancy without delay, share the acting assignment between different staff members, second someone at level from within the organisation or fill the temporary vacancy through a labour-hire company. The manager should certainly not involve the person in drafting any of the recruitment documentation or in answering any queries about the vacancy.

Why is taking short cuts in the recruitment process a risk?

Managers may sometimes have an urgent need to fill a vacancy and may be tempted to take short cuts in the process including not advertising the job broadly, not completing background checks and not checking credentials. This represents a risk if the person is then found unsuitable for the job. In cases like this it might be better to temporarily fill the vacancy while a more robust process is undertaken.

Why should applicants be alerted to any background checks that are required?

Informing applicants about background checks in the job description and advertisement will help them decide whether or not to apply. It will also discourage unsuitable people from applying. Background checks include:

- National Police Checks and Working with Children Checks
- Personal associations that could present a risk for the organisation
- Reference checks of previous work performance and conduct
- Verification of employment history with previous employers including roles and dates
- Sighting of original academic records and other professional credentials
- Evidence of secondary employment that could present a conflict of interest with the advertised role.

When should background checks be undertaken?

Background checks are undertaken on the preferred applicant. The selection panel has considered each of the applicants and decided which is best qualified to perform the job. The background checks are then used to verify this assessment and to test out any issues with referees. For more information read the VPSC's Guidance Note on Police Checks.

When should members of the selection panel declare any conflicts of interest?

If any member of the selection panel has a personal association with one or more of the applicants, they should declare it to the panel at the start of the process. If the conflict of interest cannot be managed they might excuse themselves from the process. If they remain on the panel, they cannot be a referee for any of their associates and should not be involved in reference checking. Care should also be taken that their association with some of the applicants does not influence the views of other panel members.

Is there a difference between a personal and a professional association?

Hiring managers may know many of the applicants, particularly if they are employees. In most circumstances their association with the applicants will be purely professional. They will base their judgement on each applicant's abilities rather than be influenced by irrelevant factors.

How can membership of the selection panel lead to objective decisions?

Including people from outside the immediate work area, such as an HR representative, a manager from another division or an independent expert can bring greater objectivity to the selection panel's decisions.

What type of questions can the selection panel ask applicants in the interview?

Behaviourally based questions related to the inherent requirements of the job work best and form the major part of the interview. However the panel will also want to confirm that the applicant consents to them conducting background checks and contacting referees. Preferably referees will be either current or previous direct supervisors. However applicants might not consent to the panel contacting a current supervisor if it could jeopardise their current employment.

The panel should ask about any unexplained gaps in the applicant's employment history. These might indicate that the applicant was dismissed by a previous employer or resigned while under investigation for misconduct. The panel should also ask about secondary employment if this could pose a potential conflict of interest. An example is a person who owns a building company or whose personal associates work in the building industry and the job is involved in managing building contracts on behalf of government. The applicant's personal interests might prevent them from being able to perform the job impartially.

The panel must not ask questions that are discriminatory or breach a person's privacy.

Applicants should be asked direct questions about their suitability for employment. Such questions might include their reasons for leaving a former employer, proof of mandatory qualifications and anything that might limit their ability to undertake a particular role, such as a relevant criminal record or a history of misconduct. They must answer these questions honestly. Providing false or misleading information can be the basis for dismissal in the Victorian public sector.

What type of questions can the selection panel ask referees?

A senior member of the selection panel, possibly the hiring manager, should conduct the reference checks. Having one person hear and record all the referees' comments provides consistency. The panel member should ask the referee to confirm the applicant's role and period of employment and ask questions about the applicant's experience and skills. The panel member might like to use the Reference Check Template to record the discussion.

Referees may be obliged to give a fair and truthful assessment of the applicant's work performance and conduct. This can include information about an applicant being disciplined or dismissed from an organisation. It can also include the progress the applicant has made to improve their performance.

Applicants can ask to see the comments referees make about them. Referees should therefore limit their comments to information relevant to the employment relationship such as the applicant's work performance, conduct, skills and experience. Any comments should be honest and fair. Referees should not comment on the applicant's personal attributes.

What type of information can be sought from former employers?

Former employers are under no legal obligation to provide a reference. They may choose to simply confirm the details of the applicant's employment with them, such as dates and title. This may be done to avoid risking any claims of misrepresentation, defamation or invasion of privacy. Misrepresentation happens when critical information about an applicant is withheld or inaccurate information is given. The applicant might be described in undeservedly glowing terms to the prospective employer. Or the

applicant's skills and experience might be downplayed and so they miss out on being employed. Additionally privacy laws require that an applicant's consent be sought before contacting a person they have not nominated as one of their referees. Additionally privacy laws require that an applicant's consent is given prior to a reference check being undertaken. This includes circumstances where the organisation wishes to contact a former employer for the purposes of reference checking but the applicant has not provided that person as a referee.

How does the hiring manager inform the new employee about standards of conduct?

The induction program should cover topics such as the VPSC's Code of Conduct for Victorian Public Sector Employees and any relevant policies, guidelines or instructions that the organisation may have issued. Some jobs such as those involved in regulation, procurement, licensing or enforcement may be targeted by third parties hoping to obtain an unfair advantage. In these cases the VPSC's GIFT test postcard might be a useful reminder for how to avoid a conflict of interest.

What should the hiring manager do if they have any concerns about a new employee?

The manager should extend the new employee's probation period (in accordance with any applicable contract or industrial agreement such as an Enterprise Agreement or Determination) if they have any concerns about their abilities or conduct.

Download the Reference-Check-Template (DOC 0.38MB 3 pages)

Guidance for integrity in engaging contractors

Engaging a contractor gives Victorian public sector employers flexibility to meet their organisation's workforce needs.

Purpose

Engaging a contractor gives Victorian public sector employers flexibility to meet their organisation's workforce needs. They may employ contractors with specialised skills, for a one-off complex project or to cover short-term absences of ongoing staff. Contractors who perform a public sector role must comply with the Code of Conduct for Victorian Public Sector Employees.

It is important that the organisation has an open, transparent process for engaging contractors that balances risk and efficiency. Employees may be tempted to take short cuts if the process is overly complex or time consuming. Contractors may not understand what is required of them when bidding for work. A lack of internal controls could leave the organisation exposed to unacceptable risks including fraud. This guidance note gives employers tips for preventing, detecting and responding to the risks associated with engaging contractors.

Risks

Why is engaging a contractor an important risk to be managed?

In its 2012 survey of fraud, bribery and corruption in Australia and New Zealand, KPMG found that fraudulent tendering was the greatest financial risk in the public sector. When employees colluded with contractors over price, the fraud was harder to detect

and accounted for 42 per cent of the total financial loss. Collusion includes releasing confidential pricing information, splitting invoices to circumvent delegation limits, and extending the scope of work from what is really needed. These may all result in inflated prices being paid.

Most employees who committed fraud did not have a history of dishonesty and would therefore not have been detected through a criminal history check. They were often motivated by greed or personal financial pressure and had taken advantage of an opportunity in the process.

An employee who has unchecked control over an entire process or over two closely related points in a process has an opportunity to act corruptly. Examples include an employee who both orders and verifies the delivery of goods. This provides an opportunity to over order and under deliver goods. An employee who raises invoices and pays accounts has the opportunity to create false records.

In a weak market with few alternative suppliers, the contractor has far more information about technical details and costs than the organisation. This provides an opportunity for an employee and contractor to exaggerate the scope and cost of work.

Negotiations following the selection of a contractor may be used to extend the scope or vary the work in other ways. This is both unfair to the other contractors bidding for the work and perhaps an indication that the organisation has not assessed its need accurately or does not understand the market.

Finally, an employee who fails to tell their employer that they have a private business in a related industry may attempt to subcontract for government work through the contractor. They may also disguise ownership of their company while bidding for government contracts directly.

How can the risks associated with engaging contractors be mitigated?

The culture of an organisation is paramount. Employees learn from formal training but also from observing the behaviour of their manager and peers. The *Victorian Public Administration Act 2004* outlines the values that they need to demonstrate at work. Of particular importance to contract management are:

- Being open, honest and transparent
- Using powers responsibly
- Reporting improper conduct
- Avoiding real or apparent conflicts of interest
- Accepting responsibility for decisions and actions
- Submitting to appropriate scrutiny.

Any employee involved in engaging a contractor should be aware of the organisation's processes and receive sufficient support from their manager. Any departures from standard processes should be rare and the reasons documented. Any suspected corruption should be reported to the organisation's Protected Disclosure Coordinator[1], Victoria Police or to the Independent Broad-based Anti-corruption Commission (IBAC). Additionally, random monitoring by the manager or internal audit will deter corrupt behaviour and quickly identify any problems. It is reasonable for managers to ask to see the detail of how price estimates were obtained before signing off on budgets.

A good system is both efficient and prevents opportunities for corruption from occurring. The *Standing Directions of the Minister for Finance* under the *Financial Management Act 1994* require organisations to review, approve and oversee their system of internal controls. In keeping with this requirement, organisations may want to map out their processes to make sure there are sufficient internal controls in place. They should also review the internal controls again following an investigation into any incidence of fraud.

The *Standing Directions* prohibit a contractor from being issued a financial delegation or authorisation. There is presently no scope for an exemption to be granted for this requirement.

What are the red flags to look out for?

Red flags are the early warning signs that fraud may be occurring and can include:

- Lack of supporting documentation for the decisions taken
- Bypassing standard processes
- Frequent payments just below delegation limits

- Apparent splitting of orders
- Unusually close relationships with particular contractors
- Allocating work to a small number of contractors
- Acceptance of gifts, benefits or hospitality from particular contractors
- Undeclared private interests that potentially conflict with an employee's role.

Preventing fraud

Are there whole of government policies to consider?

The Victorian Government Purchasing Board (VGPB) issues policies, good practice guides, tools and templates to assist government departments to take a more strategic approach to procurement.

The Minister for Finance has issued two directions that reinforce the VGPB's policies. Government departments must have effective internal controls so that procurement is based on business needs and the following principles:

- Value for money
- Open and fair competition
- Accountability
- Risk management
- Probity and transparency.

Government departments must disclose details of expenditure on consultancies in their annual report. Additionally, the Victorian Government Data Directory (www.data.vic.gov.au) is a website providing public access to government owned data. It includes details of expenditure on consultancies valued between $10k and $100k for each government department.

Government departments and public sector organisations also need to retain information about the contractors they have engaged, the services they have provided and the expenditure committed.[2] This information is generally available on request

to Ministers, Members of Parliament and the public, subject to the provisions of the *Freedom of Information Act 1982*. The information may also need to be retained in accordance with the provisions of the *Public Records Act 1973*.

Why is planning the essential first step?

Before deciding to engage a contractor, the organisation must be satisfied that the work is necessary and cannot be completed using internal resources. The organisation must also fully assess potential risks and document the basis of a preferred approach for addressing those risks.

Why use the state purchase contract for staffing services?

The state purchase contract is mandatory for the engagement of temporary and on-hire staff in the Victorian Public Service and optional for other public sector organisations. The contract covers seven master vendors and can be used to fill information technology (IT), administrative, specialist, professional and senior roles. The purpose of the contract is to minimise the cost of recruitment, provide value for money and supply suitably qualified staff in a timely fashion. It makes the process of hiring staff more independent and less likely to result in a conflict of interest because it involves a third party. Managers are unlikely to hire a personal connection because the master vendors supply the applicants.

Why should exemptions from standard process be monitored?

An exemption from standard process has the potential to limit competition and reduce value for money. The exemption may have been sought to meet tight timeframes or to engage a contractor with unique expertise or prior knowledge. If exemptions are freely granted, a small number of contractors may gain an undue hold on future work in the organisation. By monitoring exemptions, the organisation can identify trends and set processes in place to lessen their need.

How can organisations limit the opportunity for biased decision-making?

Decisions about engaging a contractor should be made by a group of people rather than one person. Each member of the evaluation panel completes a conflict of interest form before commencing the procurement process. The contract is approved by a financial delegate with some independence from the process such as a senior person in the corporate or legal area of the organisation.

Enforced job rotation is another technique that can bring a fresh perspective to the workplace and limit the opportunity for improper behaviour to go undetected.

What are the benefits of including a procurement specialist in the process?

A procurement specialist can reduce the risk of corruption and increase the effectiveness of procurement. They can advise on what work is needed, how much it should cost and whether a competitive market exists or not. They bring an independent view to the process.

What type of background checks might be appropriate?

Organisations may wish to conduct background checks, including a police check, on staff who are appointed, promoted or transferred to areas of high risk (refer to the VPSC's *Guidance Note on Police Checks in Recruitment* for more details). They may also request the master vendors to supply on-hire staff who have been police checked. Police checks may also be appropriate for contractors who have ready access to the organisation's resources such as those providing catering or cleaning services.

Organisations can check the Australian Business Register (abr.business.gov.au) and the Australian Securities and Investments Commission (connectonline.asic.gov.au) for details about contractors, both sole traders and companies. Possible searches include company name, address and associate details (ABR), banned or disqualified individuals, and notices of insolvency (ASIC). They can also check the Victorian WorkCover Authority database (www.vwa.vic.gov.au) for details of prosecutions and other notices under the occupational health and safety legislation.

In high risk areas, such as the building industry, organisations may wish to cross check the names and addresses of contractors against the names and addresses of staff members to help identify potential conflicts of interest.

How does the contract help to prevent corruption?

The contract needs to be carefully worded and can cover probity checks, fraud, confidentiality, key performance indicators and subcontracting. Organisations may ask for subcontractors to be listed in the contract. Not only does this information give them more detail about who is doing the work but it can also deter or detect conflicts of interest. An employee may have secondary employment as a subcontractor.

The contract manager, contractor and any sub-contractors must comply with the conditions in the contract. The services or goods provided will be assessed against the key performance indicators.

How should organisations respond to suspected fraud?

Organisations should have systems for internal reporting of detected incidences of fraud and establish a fraud and corruption register. The organisation may have an internal investigation unit that can gather evidence, investigate and make recommendations about improvements to internal controls and policies in response to suspected fraud.

Organisations should also ensure that allegations of fraud and corrupt conduct are reported to the appropriate law enforcement agencies or government bodies. For instance, the organisation may refer the matter to the Independent Broad-based Anti-corruption Commission (IBAC) or to Victoria Police for investigation. The organisation must also notify the Minister for Finance and the Auditor-General of any suspected or actual fraud in accordance with the Department of Treasury and Finance's *Thefts and Losses Rules.*

The organisation may want to discipline and possibly dismiss any employee found guilty of serious misconduct or corruption and terminate engagements with contractors who engage in similar conduct. It may also recover money or property fraudulently obtained.

Where can organisations obtain more information about contract management?

Organisations, their employees and contractors can contact:

- Victorian Public Sector Commission for advice on the *Code of Conduct for Victorian Public Sector Employees*, the *Guidance Note for Managers Engaging Contractors and Consultants,* and the public sector values and employment principles
- Department of Treasury and Finance for information about the *Financial Management Compliance Framework* and the *State Purchase Contract for Staffing Services*.
- Their organisation's Internal Purchasing Unit (IPU) for advice on the procurement policies and processes they should be following
- Victorian Government Purchasing Board (VGPB) for advice on the *Procurement Capability Framework*, whole-of-government procurement policies and standard contracts
- *Procurement People* group on the Victorian Public Service (VPS) Hub to share good procurement practice with peers
- Australasian Procurement and Construction Council Inc. (APCC) to read its procurement publications
- Institute of Public Administration Australia (IPAA) Victoria to enrol in its *Procuring with Integrity* and *Contract Administration* courses
- Chartered Institute of Purchasing & Supply Australasia (CIPSA) to enrol in one or more of its procurement skills training courses
- Royal Melbourne Institute of Technology (RMIT) University to enrol in its *Master of Strategic Procurement* course
- Independent Broad-based Anti-corruption Commission (IBAC) for advice on protected disclosures and methods of preventing corruption.

Footnotes

1. An organisation that is a public service body or a prescribed public body is able to receive protected disclosures under s 13 of the *Protected Disclosure Act 2012*.

2. FRD-22E Standard Disclosures in the Report of Operations.

Guidance for managers engaging contractors and consultants

Victorian Public Service (VPS) departments determine the mix of employment arrangements to best meet their business needs.

Engaging contractors and consultants, in addition to ongoing employees, gives departments the flexibility to meet immediate critical skill gaps. This guidance is for managers engaging contractors and consultants to perform a public sector function. It explains different employment arrangements and why it's important for the code of conduct to apply to anyone working in government.

Is there a difference between contractors and consultants?

Consultants are a particular type of contractor. Both consultants and contractors are engaged through a contract. Consultants are engaged primarily to provide expert analysis or advice. They might for example conduct feasibility studies and market research, or analyse and advise on a department's workforce planning requirements. In contrast other types of contractor are engaged to provide works or services. They might for example act as project or program managers or prepare guidance materials for proposed or existing processes. Contractors do not include casual, fixed-term or temporary employees directly employed by the department.

Is an on-hire worker a contractor or an employee?

The Department of Treasury and Finance is the lead agency for the mandatory State Purchase Contract for Staffing Services. When a department needs to fill a short-term

vacancy they contact one of the master vendors on the contract with their requirements. The on-hire workers are the employees of the master vendors not the department.

What is the difference between contractors and employees?

There is no single difference between contractors and employees. Departments would need to look at the whole working arrangement. However some of the key differences are that contractors are capable of carrying out a business for themselves. They are paid a fixed sum or, in the case of consultants, an hourly rate for time spent providing the services. They can provide services to other businesses and are in a position to make a profit or loss. They are generally engaged because of their skills to work autonomously and unsupervised on a specific project. Employees on the other hand are supervised, use the department's resources and are paid an annual salary.

What are the risks of contractors being deemed employees?

The risk to departments of their contractors being deemed to be employees is that they will be liable for costs associated with employment including annual leave, personal leave and certain taxes. Further, a contractor of a department who falls within a 'deemed worker' category under the Accident Compensation Act 1985 may be entitled to claim compensation from the department for any illness or injury they suffer arising out of or in the course of providing the services.

Is it possible for a contractor to have significant management responsibilities?

In some circumstances it will be appropriate for a department to engage a contractor to undertake significant management responsibilities. This is particularly the case when the specialist skills or experience required are not readily available within the VPS, the

project has a short duration or market rates apply. The contractors may participate in the formation of a department's business or project plans, undertake team or project leadership or be involved in a department's operational decisions.

Can contractors hold a financial delegation?

Contractors cannot be given financial delegation without the department first seeking an exemption from the Minister for Finance. This is the case even if the contractor is performing duties that would typically be performed by a person employed in an executive role that holds a financial delegation.

Why wouldn't the department just engage someone on an executive contract?

A department may wish to engage a contractor through their company. In these situations an executive contract is not suitable. An executive is a departmental employee and a public official under the Public Administration Act 2004. The executive contract is with an individual not their company.

Does my department need to report on the contractors it engages?

Departments must disclose certain information in their annual report on operations including:

- expenditure on individual consultancies valued in excess of $10,000 (exclusive of GST);
- the number of consultancies that are individually valued at less than $10,000 (exclusive of GST) and their total expenditure (exclusive of GST); and
- the number of contractors undertaking significant management responsibilities and valued more than$100,000 (exclusive of GST).

Departments also need to retain information about all the consultants and contractors they engaged, the services provided and expenditure committed. This information is available on request to Ministers, Members of Parliament and the public, subject to the provisions of the *Freedom of Information Act 1982*.

Do contractors need to comply with the code of conduct?

The code details the high standards of integrity the Victorian community expects of government. The code is based on the public sector values and calls for behaviours such as responsiveness, openness and honesty. These are not out of the ordinary. Some of the obligations in the code are reflected in the standard forms of contract used to engage contractors and consultants, such as avoiding conflicts of interest and protecting confidentiality and privacy.

Certain contractors are required to comply with the code because they are performing a public sector
function. It doesn't matter to the public whether the government service is being provided by an employee
or a contractor. They expect the same high standards of integrity.

When are contractors performing a public sector function?

Contractors engaged in or by the department (including contractors engaged through an employment agency) are performing a public sector function when they:

- supervise public sector employees;
- undertake work that is of a similar nature to the work undertaken by public sector employees at a
  premise or location generally regarded as a public sector workplace; or
- use or have access to public sector resources or information that are not normally accessible or

available to the public.

Does complying with the code mean contractors are deemed employees?

No, a contractual requirement to comply with the code in certain circumstances will not, of itself, make it more likely that a court would find that an individual is an employee rather than a contractor.

Can contractors be restricted from engaging in outside activities?

The code includes a provision that public sector employees only engage in other activities such as a second job or involvement with other organisations (paid or voluntary work) where the activity does not conflict with their public sector role. This restriction also applies to contractors performing a public sector function when compliance with the code is a term of their contract.

Where can I find out more information about engaging contractors?

There are a number of places for managers to find out more information including:

- their department's Accredited Purchasing Unit (APU) or Internal Procurement Unit (IPU) for advice on the policies and practices in place and to develop their contract management skills;
- the Victorian Government Purchasing Board for advice on procurement policies and practices and to access current state purchase contracts;
- the Department of Treasury and Finance for advice on complying with the Standing Directions of the Minister for Finance and the Financial Reporting Directions;

- the Australian Taxation Office for advice on the differences between contractors and employees; and
- the Public Sector Standards Commissioner for advice on application of the code of conduct and reporting any breaches of the code or the Victorian public sector values and employment principles.

Attracting and retaining an ageing workforce

Information and practical tools to assist in attracting and retaining older workers for line managers and HR professionals in the Victorian public sector.

This guide offers information and practical tools to assist in the attraction and retention of older workers for line managers and HR professionals in the Victorian public sector. Consistent with recent research findings and best practice, it advocates an age-inclusive approach.

The guide builds on information provided in the background paper, Barriers and Enablers to the Attraction, Recruitment and Retention of Mature Aged Workers (SSA 2008). Its intent is to provide you with resources to support the development of a well-considered business case and an age-inclusive approach to your attraction and retention strategies.

The central tool used in this document is the 'mature talent framework', developed specifically for the Victorian public sector by consultants Ernst & Young. It highlights key principles and considerations for attracting and retaining older workers in the public sector and acknowledges the critical role of leadership and management capability in achieving an age-inclusive culture. Importantly, the framework does not advocate a 'one size fits all' approach, but leaves scope for you to decide what is right for the mix of skills and ages in your team and your environment.

Attracting and Retaining an Ageing Workforce: A Guide for Victorian Public Sector Managers