



Supplier Wage Audit Model Clauses - Guideline

Introductory guidance and model clauses

January 2025



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Refer to the Buying for Government page on [WA.gov.au](#) for more information about whole-of-government procurement policies, guidelines and templates.

If you have any queries or change suggestions regarding this *guideline*, contact Procurement Policy and Improvement at procurementadvice@finance.wa.gov.au.

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1. Introduction

The Supplier Wage Audit (**SWA**) unit of the Department of Energy, Mines, Industry Regulation and Safety (**DEMIRS**) proactively monitors and audits the compliance of Government suppliers with employment obligations under applicable industrial laws and instruments and enhances sector-wide capability in assessing compliance with employment obligations.

State Agencies are required to insert clauses into contract documentation to ensure that SWA has the authority to audit Government suppliers' employment related information. For goods and services and community services procurements, these clauses were added to the following contract conditions in November 2022:

- the [General Conditions of Contract](#) (clause 18.3 and clause 38); and
- the [General Provisions for the Purchase of Community Services](#) (clause 13.3 and clause 28).

For State agencies which maintain agency-specific procurement templates (such as for works procurements), the model clauses at **section 4** below must be included in equivalent contract documentation in accordance with the guidance provided in this guideline.

DEMIRS also publishes example clauses for use in works related subcontracting arrangements on WA.gov.au.

2. Purpose

The purpose of this document is to provide model clauses for general agency guidance only. They should be reviewed and adjusted for consistency with any procurement or contract documentation in which they are used. If in doubt, an agency should seek legal advice about the model clauses prior to finalising any documentation in which they are used.

3. Defined Terms

The model clauses use the following terms which will most likely already be defined in your agency's contract documentation. These terms in the model clauses should be adapted to be consistent with the terminology used in your agency's documentation.

- **Contract** means the agreement for the supply.

- **Contractor** means the supplier engaged to provide the supply.
- **Contractor Personnel** means all officers, employees, agents and subcontractors of the Contractor, and all officers, employees or agents of subcontractors, engaged in relation to the supply of the services.
- **Goods** means the deliverables, goods, hardware, products or software (if any) described, and in the quantity specified, in the Contract.
- **Services** means the services (if any) described in the Contract Agreement; and
- **Sub-Contractor** means any Sub-Contractor (at any tier) of the Contractor.

4. Model Clauses for Conditions of Contract

It is recommended that your agency's contract documentation contains a clause to ensure that contractors comply with relevant industrial awards and workplace agreements. An example clause is provided below:

Awards and Workplace Agreements

- The Contractor must ensure that the remuneration and terms of employment of all Contractor Personnel for the duration of the Contract will be consistent with the remuneration and terms of employment that reflect the industry standard as expressed in awards and agreements and any code of practice that may apply to a particular industry.
- The Contractor will comply with, and ensure that the Contractor Personnel will comply with, all Commonwealth and State laws relating to employment or industrial matters and relations (including the *Fair Work Act 2009* (Cth) and the *Industrial Relations Act 1979* (WA)).

Your agency is required to insert the following clause into relevant contract documentation to ensure the SWA has the authority to audit Government suppliers' employment related information:

Audit of Employment and Industrial Relations Practices

- An agent or representative of the State may commission an audit of the Contractor's or any Subcontractor's employment or industrial relations practices (including terms of employment) in connection with this Contract and Goods and/or Services performed or provided

under or in connection with this Contract, and, upon such commissioning, the following provisions shall apply.

- b) The Contractor shall, and shall ensure that its Subcontractors, fully cooperate with the agent or representative of the State and any auditor appointed by them in any audit including to:
 - i) allow an agent or representative of the State access to all employment related Information in the Contractor's or Sub-Contractor's (as the case may be) ownership, possession or control, and allow an agent or representative of the State to conduct audits of all employment and payroll records in the Contractor's or Subcontractor's (as the case may be) ownership, possession or control;
 - ii) allow auditors appointed by the agent or representative of the State to communicate directly with employees of the Contractor or Subcontractors (as the case may be), and to have access to sites and premises in the ownership, possession or control of the Contractor or relevant Subcontractor (as the case may be) for the purpose/s of the audit;
 - iii) ensure that all employment related Information (including access to such Information), in the Contractor's or relevant Subcontractor's ownership, possession or control, is promptly provided to the auditor on request;
 - iv) allow the agent or representative of the State to communicate with (including providing Information to) the employees of the Contractor and relevant Subcontractors; and
 - v) promptly rectify any problem or wrong identified by the auditor and notified to the Contractor or relevant Subcontractors (as the case may be).
- c) The Contractor acknowledges and agrees, and shall ensure that each of its Subcontractors acknowledge and agree, that the agent or representative of the State may refer any problem or wrong identified by the auditor to any State or Commonwealth body or authority having an oversight role in respect to employment or industrial relations matters.
- d) In the preceding provisions of this clause [insert clause reference]:

"employment related Information" means Information pertaining to employees or the terms and conditions of their employment, or payroll;

"Information" includes information, facts, data, records and documentation; and

"Subcontractors" means subcontractors (at any tier) of the Contractor.