



Contracted service providers, grant recipients and the NACC

This fact sheet explains how service providers contracted by Government agencies and grant recipients are within the jurisdiction of the National Anti-Corruption Commission (the Commission).

Public officials are defined in the *National Anti-Corruption Commission Act 2022* (the Act) as **staff members of a Commonwealth agency**, staff members of the Commission and parliamentarians.¹

Where a Commonwealth agency is responsible for administering a contract to deliver goods and services to or on behalf of the Commonwealth (Commonwealth contract), the definition of a **staff member of a Commonwealth agency** also includes an individual who is:

- a. a party to the contract, or a subcontractor, who is responsible for the provision of goods or services under the contract (contracted service provider)
- b. an officer or employee of a contracted service provider, who provides goods and services for the purposes (whether direct or indirect) of the contract.

¹ Commonwealth means the national or central government, usually called the Federal Government, Commonwealth Government or Australian Government. A Commonwealth agency means a Commonwealth Government department or agency. It does not include State or Territory or local governments, or their departments or agencies.

This means individuals who are contracted service providers (including subcontractors), and officers or employees of contracted service providers who provide goods or services under the contract, are **public officials** and are within the jurisdiction of the Commission.

The following further explains the Commission's jurisdiction with respect to contracted service providers.

Commonwealth contract

A Commonwealth contract exists where the Commonwealth or a Commonwealth agency is a party to a contract. Goods or services (or both) must be being provided **to** the Commonwealth or the agency, or the goods or services are being provided **in connection with activities** of the Commonwealth or agency.

Examples of Commonwealth contracts include a contract to:

- provide IT services to a Commonwealth agency
- operate a Commonwealth facility on behalf of the Commonwealth (such as an immigration detention centre)
- provide a service for the Commonwealth, such as legal services
- operate a call centre on behalf of a Commonwealth agency.

Contracted service provider

A contracted service provider is a person who is a party to a Commonwealth contract or is a party to a subcontract with a contracted service provider and is responsible for the provision of goods or services under the contract, either directly or indirectly.

Examples of contracted service providers include:

- XYZ Airlines has a contract with the Commonwealth to provide air travel to Commonwealth employees throughout Australia – XYZ **is a contracted service provider**.
- If XYZ subcontracts the provision of air travel in Tasmania to ABC Airways – ABC Airways **is a contracted service provider**.
- If XYZ subcontracts Baghandlers to provide baggage handling services as part of the provision of travel services, Baghandlers **is a contracted service provider**.
- However, if XYZ contracts Collar Clothing to provide uniforms for all its own employees, Collar Clothing is **not a contracted service provider** because it is not for the purposes of the Commonwealth contract.

Staff member of a Commonwealth agency

For the purposes of the NACC Act, an individual who is a contracted service provider is a staff member of the Commonwealth agency responsible for administering the Commonwealth contract.

An officer or employee of a contracted service provider who provides goods or services for the purposes of the contract is also a staff member of the agency.

Examples of staff members of a Commonwealth agency include:

- Australia Post contracts the delivery of mail in Tasmania to Devil Couriers, which then subcontracts the delivery of mail to the West Coast to Jane Citizen, an individual, then Jane Citizen would be a staff member of Australia Post.
- Devil Couriers subcontracts to Tiger Couriers, then only those officers or employees of Tiger Couriers who actually provide the subcontracted courier services are deemed to be staff members of Australia Post.

Commonwealth grant recipients

In most cases, recipients of Commonwealth grants will be contracted service providers, if the funding arrangement includes the provision of goods or services in connection with the activities of the Commonwealth or a Commonwealth agency.

A Commonwealth grant recipient and their officers and employees can also come within the jurisdiction of the Commission if they engage in conduct that adversely affects the honesty and impartiality of a public official's exercise and performance of their powers, functions and duties (see section 8(1)(a) of the NACC Act).

Any referrals to the Commission regarding the conduct of Commonwealth grant recipients require assessment on a case-by-case basis to determine if they are within the Commission's jurisdiction.

Contact us

To make a report or general enquiry please call us on **1300 489 844**.

For non-English, dial **131 450** for the Translating and Interpreting Service.

Visit our website or complete the online reporting form at **nacc.gov.au**

Write to us at
GPO Box 605
Canberra ACT 2601

Last updated: July 2024

© Commonwealth of Australia 2024