Emergency Management
Operational Communications
Program (EMOC)

Probity Framework

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Probity Framework

1. Introduction

Victoria’s Emergency Management Operational Communications Program (EMOC) is developed and based on the principles from the Emergency Services Communications Strategic Framework (ESCSF) and Long Term Communications Plan (LTCP). The EMOC Program (the Program) confirms that a mission critical voice and data service will be required in metropolitan and rural areas of Victoria for the foreseeable future. A key strategic objective of the Program is the consolidation to a single state-wide voice and data network arrangement.

Operational communications provides the underpinning capability to allow departments, agencies, not-for-profit organisations and businesses with roles and responsibilities in preventing, preparing for, responding to and recovering from emergencies to operate and interoperate. Network investments are typically large, and the lead times to build new infrastructure are long. These investments are a prerequisite to many smaller technology efficiency Programs, so must be undertaken first.

As technology improves, community expectations change, and demand for emergency services increases, the communications infrastructure for the emergency services sector must evolve to address these changing requirements. The Program sets out a plan to transform the sector’s operational communications to meet these future demands.

The Program sits within the Strategy and Investment portfolio of Emergency Management Victoria (EMV). With the Program endorsed by the Government, EMV has developed a detailed program of works which will define a sequence of individual programs, and develop associated business cases to realise the vision of the Program.

What are the emergency services networks?

Today, there are five State contracts, which provide emergency services communications networks covering:

- Digital voice radio services in metropolitan Melbourne, used by three agencies currently (key customers) – the MMR network
- Digital voice radio services in regional Victoria, used by one agency currently (key customer) – the RMR network
- Data services in metropolitan Melbourne, used by two agencies currently (key customers) – the MDN network
- Paging services state-wide, used by three agencies currently (key customers) – the EAS network
- Analogue voice radio services state-wide, used by six agencies currently – the SMR network

These shared networks in most instances include provisioning of devices as well and are in addition to various agency-specific networks.

In the future, a key objective is to achieve a single, joined-up network serving emergency service sector Departments, agencies, not-for-profits and businesses across Victoria.
Why is the Program different?

Victorian emergency service departments, agencies, not-for-profits and businesses were involved in the development of this multi-year plan, through an extensive consultation process and have agreed to the Program, which is also endorsed by the Government.

What does EMV want to achieve?

The four key actions from the Program are to:

- Leverage new State contracts to move to a single, integrated data and voice network
- Establish a state-wide, sector-wide broadband capability
- Adopt a phased implementation plan
- Deliver the plan through EMV’s centralised procurement and governance arrangements

The Program intends to utilise our existing investment in communications to ensure value for money in addressing the sector’s future requirements. It also aims to ensure that, in line with government policy, a competitive market is fostered and encouraged. There are a number of ways to achieve this, including the separation of network from terminals and applications, to enable individual components to be tendered separately.

2. Key Activities of the Program

The following are the key activities in the Program:

(a) Sole Source Extension Negotiations activities with respect to Ensuring Continuity (2016 to 2020+):
   i. MDN Continuity
   ii. EAS Continuity
   iii. MMR Continuity
   iv. RMR Continuity
(b) Radio Network Upgrade and Consolidation Projects:
(c) Paging Network Upgrade and Consolidation Projects
(d) Broadband Transition Projects
(e) Beyond 2020 Business Case activities with respect to Strategy and Planning (2020+ to 2025+):
   i. Market Sounding/Information Gathering
   ii. Network Upgrade/Consolidation and Broadband Transition Business Cases
(f) Delivery

(all referred to as the Activities)

This Probity Framework (Framework) replaces the LTCP Probity Framework and incorporates, where applicable, the probity requirements of that document. The intention is to ensure a
continuation of probity documentation from the LTCP Probity Framework into this Framework.

This Framework is intended to provide overall guidance on the probity principles applicable to the Program. It may be amended from time to time, and will be supplemented by various Probity Plans and Protocols.

It is intended that Probity Plans will be put in place with respect to each of the Activities, namely the Sole Source Extension Negotiation Activities and the Beyond 2020 Business Case Activities. These Probity Plans are “stand alone documents” operating under the Framework.

To the extent that other Program documents contain details about the Program which are inconsistent with the details described in this Framework, the other documents prevail.

3. Governance

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ESLG is the peak body representing all of Victoria’s Public Safety Organisations, EMV and Government Departments engaged in the provision of emergency services. It has a broad strategic remit encompassing the current and future communications needs of the emergency services sector, as well as other non-operational matters as deemed appropriate by the group.

Membership and chairing arrangements

The ESLG is chaired by the Chief Executive Officer of EMV and comprises:

- The Chief Executive Officers of:
  - Metropolitan Fire Brigade (MFB)
  - Country Fire Authority (CFA)
  - Victoria State Emergency Service (VICSES)
  - Emergency Services Telecommunications Authority (ESTA)
  - Life Saving Victoria (LSV)
  - Ambulance Victoria
- The Emergency Management Commissioner
- The Deputy Secretary, Land, Fire and Environment - Department of Environment, Land, Water and Planning (DELWP)
- The Deputy Commissioner Regional Operations, Victoria Police
- The Chief Health Officer
- State Health and Medical Commander
- The Inspector General of Emergency Management
**Key Stakeholders**

The key stakeholders of the Program include but are not limited to:

- Department of Justice and Regulation
- EMV
- Emergency Management Commissioner
- CFA
- MFB
- Victoria Police
- Ambulance Victoria
- VICSES
- DELWP
- ESTA
- Sherriff’s Office of Victoria
- LSV

Other interested stakeholders include:

- Australian Volunteer Coast Guard
- Department of Health and Human Services
- Department of Economic Development, Jobs Transport and Resources
- Government Services Division, Department of Treasury and Finance
- Department of Premier and Cabinet
- Local Government entities
- Melbourne Water
- Parks Victoria
- VicForests
- VicRoads
- VicTrack

The terms of reference of the various bodies in the governance structure will be detailed in the Probity Plans for each Activity.

**4. Purpose of Probity Framework**

EMV has put in place this Framework to detail the arrangements to manage the integrity and probity of the Program, and to provide overall guidance on probity issues that arise during the Program.

The purpose of this Framework is to detail the type of probity issues that may arise and the actions to be taken throughout the process to ensure:

- A probity culture is fostered
- Confidence is preserved in the Program processes
- Program decisions and processes are defensible
The Program is conducted with integrity

The Program is conducted with processes that are objective, evidence based and consistent

Confidential information is kept secure and in particular is not disclosed to the market or otherwise inappropriately

All actual, potential or perceived conflicts of interest are addressed and effectively managed

Accountability is maintained

The risk of challenges, including legal, arising out of the Program because of a probity issue is minimised

The probity principles and processes set out in this Framework are intended to create and nurture a culture of compliance with the standards of probity required for the Program.

Document approval process

This Framework provides the overall probity framework which will apply to the Program, to guide it through the establishment and maintenance of high standards of probity in all its activities, including its procurement activities.

This Framework is approved by the ESLG or as delegated.

5. Probity Objectives

In all its decision making and dealings with potential providers, including commercial dealings, the Program will observe the highest standards of probity. Government business must be fair, open and demonstrate the highest levels of integrity consistent with the public interest.

The key objectives for adherence to probity guidelines at all stages of the process are:

- **Integrity and impartiality** – potential vendors will be treated equally and will be given the same information.

- **Use of a competitive process** – consistent with Victorian Government Purchasing Board (VGPB) policy, a competitive process will be used when appropriate to achieve value for money. In the *Ensuring Continuity (2016 to 2020+)* phase, sole source negotiations will be undertaken to ensure that the State achieves continuity of the capability together with value for money.

- **Consistency and transparency of process** – considerations of technologies and decisions in relation to technologies and vendors, including negotiations and outcomes will be made in the best interests of the State and its long term emergency telecommunications requirements.

- **Security and confidentiality** – the processes adopted for obtaining, considering, managing and disseminating Program information will seek to ensure the security and confidentiality of that information for the purposes of achieving the objectives of the Program and to protect (where appropriate) the intellectual property and proprietary of information of vendors.
• **Identification and resolution of conflicts of interest** – all persons involved in the Program on behalf of the State, will declare and address any actual or perceived conflict of interest prior to undertaking any role for the State in the Program.

• **Meeting general governmental requirements** - includes officials abiding by all relevant Acts and policies.

6. **Probity Framework Details**

In order to achieve the objectives detailed above, a probity framework needs to be put in place for the Program (this document). The Framework includes the following:

- VGPB and relevant Victorian Government policies and guidelines
- Probity (Conduct) Plan for particular activities, eg the Sole Source Negotiation and Market Sounding Activities
- *Probity Protocols (Communication)* (which will be developed for such matters as confidentiality requirements and conflict of interest procedures)
- Provision of ad-hoc probity advice throughout the Program

7. **VGPB and other Victorian Government Policies and Processes**

These are the policies which set out the standard of conduct for probity to which the Program will comply. They provide the probity policy and key processes that are relevant to all procurement Programs.

8. **Probity Risks**

Given the nature of the Program, involving as it does a large range of persons from different departments and entities within government, coming together to consider long term strategic requirements for the State with respect to emergency communications, and then engaging in Activities (eg. Sole Source Negotiations and Market Sounding Activities), probity risks and issues will arise during the Activities of the Program.

Those probity risks and issues can be largely categorised into the following areas:

- **Confidentiality** - a large amount of information will be obtained by the State in undertaking the Activities, including information from vendors and State information, as part of the Sole Source Negotiations and Market Sounding Activities. This information will be confidential to the Program considerations and additionally is likely to have significant commercial value to the market participants within which the Program operates *(Confidential Information)*. The inappropriate and unplanned provision of this information to market participants or to persons outside the Program would have the potential to jeopardise proper government decision making and may be unfair to some participants. Mitigation strategies are to be put in place pursuant to this Framework in order to protect the Confidential Information.

- **Conflicts** - it is a key probity principle that conflicts, *including perceived conflicts*, need to be identified and managed appropriately. Given the large number of members of the Program Team it is likely that some members will have perceived conflicts of interest, arising out of current or business contacts with existing vendors. It is critical to the robustness of the decision making of the Program that these matters be identified, documented and managed under this Framework.
- **Gift benefits** - receipt of gifts and benefits from vendors (or other market participants) by Program Team members would undermine the robustness and integrity of the decision making of the Program. Accordingly, strict observance to the requirements of the State Government Gifts, Benefits and Hospitality policy together with particular Program protocols is required.

9. **Management of the Probity Risks and Issues**

Probity risks and issues can arise at all stages of the Program. Such issues should be identified and reported to the Program Director and Probity Adviser as soon as practical. The probity issue should be detailed in a Probity Issue File Note, which is attached as a template to this Framework.

The VGPB Policy on Commercial Engagements and other relevant policies should be consulted and followed for guidance on how to deal with a particular probity issue.

The Program Director, in consultation with the Probity Adviser, will determine whether it is appropriate to seek legal advice on a probity issue.

**Probity Adviser**

The role of the Probity Adviser is to:

- Give Probity briefings to State members, including Program Team members in relation to this Framework and the Probity Protocols (developed under this Framework)
- Check conflict of interest declarations and signed deeds of confidentiality of the Program Team
- Check the Probity Protocols (and procedures) to ensure probity requirements are met eg. processes dealing with communications with vendors and third parties; information security; confidentiality; conflicts of interest; records and information management
- Develop Probity Plans for the Activities
- Develop Probity Protocols under this Framework
- Review Engagement Plans; provide input to the State’s Advisors to ensure probity is being observed in the advisers’ activities, review engagements with vendors in activities related to the Program selection reports, evaluation matrices and evaluation reports for compliance with stated procedures and grant documents
- Provide probity advice on an ongoing basis to the Program
- Monitor adherence to this Framework
- Prepare Probity Adviser’s reports
- Provide other reports as required

In addition to the above tasks and the tasks set out in this Framework, the Probity Adviser will provide probity advice as required, both on request and on their own initiation, in relation to probity matters arising during the Program.

10. **Application of the Probity Framework**
This Framework applies to all members of the Program Team and public sector officials and advisers, in respect of their dealings and communications related to the Program (and related programs and processes).

11. **Probity Culture and Principles**

This Framework has been informed by the following principles:

- **Fairness and impartiality** - members of the Program Team will conduct the Program with fairness and impartiality
- **Accountability** - members of the Program Team will identify and document conflicts of interest, which will be managed appropriately
- **Consistency and transparency** - processes implemented to conduct the Program will be consistent and transparent
- **Security of confidential information** - confidential information will be identified and kept secure throughout the Program and will not be used for purposes other than the Program (this includes all information related to or arising out of the Program and information which subsists after the Program)

The above principles are an integral part of the management and day-to-day operations of the Program. They will apply to social situations and unrelated business meetings and extend to all persons involved in the Program.

The effectiveness of this Framework will be assessed every three months by the Probity Adviser throughout the conduct of the Program and be reported to ESLG.

12. **Compliance with Legislative Obligations and Government Policies**

In undertaking the Program, the members of the Program Team (including all members of the governance structure) must comply with public sector governance and accountability requirements set out under various pieces of legislation¹:

- **Financial Management Act 1994**
- **Freedom of Information Act 1982**
- **Information Privacy Act 2000**
- **Ombudsman Act 1973**
- **Public Administration Act 2004** (including the Public Sector Values)
- **Public Records Act 1973**
- **Whistleblowers Protection Act 2001**
- **Code of Conduct for Victorian Public Sector Employees**

**Fairness and impartiality**

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The *Public Administration Act 2004 (PAA)* requires the Program Team to:

- Use the information obtained and generated by the Program properly, for the Program and not for other purposes (including other government related purposes)
- Avoid real or apparent conflicts of interest
- Be honest, open and transparent in its dealings with the market
- Report improper conduct of their own team members
- Make decisions without bias, caprice, favouritism or self-interest
- Objectively consider all relevant matters when conducting the Program and making decisions

The Public Sector values contained in the Public Administration Act and applying to all public sector employees and contractors reflect and incorporate those obligations and the probity principles and are as follows:

- Responsiveness;
- Integrity;
- Impartiality;
- Accountability;
- Respect;
- Leadership; and
- Human rights

13. **Conflicts of interest**

Managing risks associated with conflicts of interest and perceptions of bias is important to ensure that the highest levels of integrity and public trust are achieved and maintained during the Program.

Section 7(b)(IV) of the PAA requires all public sector employees and other public officials to avoid any real or apparent conflicts of interest.

The PAA applies to public sector entities\(^2\). In performing their role, Program Team members (including members of the governance structure) are bound by the legislated requirements of:

- The Victorian public sector values of: responsiveness; integrity; impartiality; accountability; respect and leadership; and
- The *Directors’ Code of Conduct*, which is aligned to the above.

Clause 2.7 of the *Code of Conduct for Victorian Public Sector Employees* reinforces the requirement for public sector employees to avoid any real or apparent conflicts of interest.

The types of conflict of interest are:

- **Actual** - where there is a real conflict between a person's public duties and responsibilities and their private interests
- **Potential** - where an employee has a private interest that could conflict with their public duties (this is usually a timing matter)
- **Perceived** - where a third party could form the view that an employee's private interest could improperly influence the performance of their duties and responsibilities now or in the future

An interest could be anything that could have or has an impact on a person performing his or her public function as a member of the Program Team.

A private interest includes not only an employee's own personal, professional or business interest, but also the personal, professional or business interest of individuals or groups with whom they are closely associated. Private interests include pecuniary as well as non-pecuniary interests.

- **A pecuniary interest** involves an actual, potential or perceived financial gain or loss. For example, a person (or his or her relative or a close associate) could own property, shares or have a position in a company bidding for government work or is investigating into, or receive benefits such as concessions, discounts, gifts or hospitality from a particular source that is likely to affect the outcome of the public duty they are entrusted to perform.

- **A non-pecuniary interest** does not have a financial component and could arise from personal or family relationships or involvement in sporting, social or cultural activities. They could include any tendency towards favouritism or prejudice, resulting from friendship, animosity, or other personal involvement with another person or a group.

**Responsibilities**

Members of the Program Team will:

- Act without bias, favouritism or self-interest
- Arrange their private affairs to prevent conflict of interests arising and to protect their impartiality
- Follow all policies and procedures established for the Program
- Sign a Conflict of Interest Declaration in the form set out in this Framework[^3]
- Declare all relevant interests (including non-financial) to the Chair, Working Groups
- Where actual, potential or perceived conflicts of interests may arise, promptly declare such interests to the Chair, Working Groups and seek the necessary advice

[^3]: Other than members of ESLG whose members will be covered by the general probity requirements of ESLG and the procedures in place with respect to that body.
• Stand down in any decision making process where they feel compromised due to a conflict of interest or as advised by the Chair, Working Groups

• Not seek or accept favours or gifts for services performed in connection with official duties

Included in this category are gifts in kind, such as free accommodation or travel or entertainment vouchers from any telecommunication business for the Program Team member or his or her immediate family. Members of the Program Team should not seek or accept favours and gifts from anyone who could benefit by influencing them. Where an offer of a benefit or a gift is made, regardless of whether it is accepted or not, the member of the Program Team or Department Officer will promptly inform the Chair, Working Groups.

• Not use their position to obtain a private benefit for someone else and their decisions must not be improperly influenced by family or other personal relationships

It is not possible to define all potential areas of conflicts of interests. When in doubt as to whether a conflict exists or is likely to arise, members of the Program Team should raise the issue with the Chair, Working Groups.

Processes to be adopted during the Program

Members of the Program Team

Prior to commencing work on the Program, members of the Program Team will provide a signed Conflict of Interest Declaration in the form set out in this Framework4. The Chair, Working Group must keep the Conflicts of Interest Declarations in a secure Conflict of Interest Register (Register).

Such documents must be signed at least at the commencement of the Program Team members’ engagement on an Activity, such as the Sole Source Negotiations and/or the Business Case preparations (including the Market Sounding).

If a Program Team member is involved in several activities at the same time or over time, they should sign Conflict Declarations with respect to each Activity.5 The same confidentiality documentation will apply to all Activities and therefore do not need to be signed on multiple occasions by Program Team members.

Members of the Program Team have an ongoing obligation to declare conflicts of interest throughout the Program and not just at the time when Conflict of Interest Declarations are requested by the Chair, Working Group.

The Chair, Working Group will assess the Conflict of Interest Declarations to determine whether they present a material conflict of interest. Whether a conflict of interest is material will ultimately depend on the facts. Where a material conflict of interest is identified, the Chair, Working Group will consider and implement an appropriate response in consultation with the Program Sponsor. Implementation of the response will be documented and filed in the Register.

4 Or in a form as agreed by the Chair, Working Group and the Probity Adviser.

5 This is because it is possible that different conflicts arise with respect to the different Activities.
A member of the Program Team may have a conflict of interest between their role on the Program and their usual role at the Department. If the conflict between the two roles is material, the Chair, Working Group will give a direction to appropriately manage that conflict.

Program Team members of ESLG

When disclosing private interests or conflicts of interests, members must provide sufficient detail to the Chair to enable an adequately informed decision to be made about identification of any conflict of interest.

Program Team members must at the commencement of each ESLG meeting declare whether they have an interest in any matters due to be considered at that meeting. Where the interest is disclosed at an ESLG meeting, a record of the disclosure must be made in the minutes.

If the disclosure is made outside of a meeting, the relevant member should inform the Chair in writing (either by email or letter) about the interest.

Declarations of private interests (for each member) will be kept in a secure register within the Program Team.

14. Consistency and transparency of process

The scope of the Program must be clear and the decision making of the Program must be conducted within the terms of reference.

Key processes should be documented and followed. This includes Sole Source Negotiation and Market Sounding Activity with current contractors and potential telecommunication vendors. Departure from established procedures will only be for sound and well-documented reasons.

Discussions between members of the Program Team and telecommunications entity representatives should be documented and filed.

A nominated record keeper will have responsibility for generating and keeping records of key probity documents.

Records will be maintained throughout the process by the Chair, Working Group and should provide enough information to enable independent review. Key documents which should be maintained include, but are not limited to:

- This Framework
- Details of Probity Briefings to members of the Program Team
- Confidentiality undertakings and conflict of interest declarations
- Governance framework - descriptions of responsibility and accountability for each Program Team member
- Records of key meetings and site visits
- Records of discussions between Program Team members and telecommunication entity representatives
- Details of secure storage arrangements and processes
• Movement control register for the following Program-related documents:
  – the strategic considerations/recommendations/decisions made by the ESLG and/or the Steering Committees with respect to the Program
  – Highly sensitive information which will become cabinet in confidence in relation to the Program
• Protocols for Department officers not working on the Program
• Chair, Working Group’s written approvals for removal of Program-related information from the secure storage facility and for remote access
• Records of breaches of confidentiality undertakings and responses

It is necessary to consider the requirements of the Public Records Act 1973 regarding retention of Program records.

15. **Security and confidentiality arrangements**

Confidential information will be managed and secured under this Framework on the basis of the following two guiding principles, namely:

• The management of confidential information held by EMV (and relevant stakeholder agencies) in undertaking its functions and powers (other than information specific to the Program) will be in accordance with EMV’s normal procedures for the protection of confidential information (EMV Information).

• The management of confidential information created or generated by the Activities of the Program will be subject to additional processes to further protect the security of that information (Program Information).

Nothing in this Probity Framework prevents Program Team members from retaining EMV Information or Program Information in order for their agencies or organisation to meet relevant legislative obligations.

**Identifying Confidential Information**

Members of the Program Team will access and hold a variety of confidential information.

'Confidential information' is information that is ‘inherently confidential’ or has ‘the necessary quality of confidence’. In essence, any information not in the public domain may have the necessary quality of confidence if the protection of its confidentiality is of substantial concern to its owner. It is not sufficient of itself that the owner believes the information to be sensitive or confidential or the information is expressed to be ‘confidential’ or ‘commercial-in-confidence’.

For the purposes of this Framework (and therefore the Program) **Confidential Information** includes:

• Information of a business, commercial or financial nature.
For example, trade secrets and other commercially valuable information about a business such as commercially sensitive or proprietary information ‘know how’, production costs, profit margins, internal pricing information or pricing structures and R&D strategies, the protection of which would be of substantial concern to the business.

- Information that belongs to another party and that is subject to legal professional privilege (LPP). LPP protects communications between legal practitioners and their clients from disclosure. Not all communications are protected. LPP protects communications between a client and their lawyer (and any third party), created for the dominant purpose of anticipated or existing legal proceedings. It is a privilege that is held by the client and not their lawyer. The Program Team is likely to come into contact with such communication in circumstances involving consideration of any ongoing litigation matters.

- Personal information, as defined in the Information Privacy Act 2000 or the Health Records Act 2001.

- Information that is not in the public domain.

- Other information that does not strictly attract the protections afforded to information falling in the preceding categories, but which is nonetheless sensitive.

For example, personal information about persons involved in the Program.

Information Privacy Principles under the Information Privacy Act 2000 will apply to personal information in the possession of the Department.

In some instances, particular information or documents will fall in multiple categories.

It will not be possible for the Program Team to guarantee the confidentiality of such information in all circumstances. Disclosure of confidential information may be required in particular circumstances where the law so requires. For example, disclosure may be required under the Freedom of Information Act 1982, Ombudsman Act 1973 or by order of a court. Therefore, members of the Program Team should not guarantee to any third parties that information provided subject to a confidentiality undertaking will not be disclosed.

All of the above confidential information is EMV Information and will be held by the EMV and accessed by Program team members, in accordance with the normal EMV procedures with respect to the protection and security of confidential information.

Additional Confidential Information—Program Information

In conducting the Program, the Program Team will also create additional confidential information. This confidential information will be created during the life of the Program and will culminate in the highly confidential and sensitive material and documents created for the:

- Sole Source Negotiations;
- Preparation and delivery of the Business Case; and
- Decisions by ESLG in relation to matters that come before it regarding the Program.

This additional confidential information, being Program Information, includes and is comprised of the following types of documents:

- Analysis of information including desktop research of EMV Information
• Draft and final reports from advisers
• Briefing papers (including all attachments) to the ESLG, including in relation to the Sole Source Negotiations Activities
• Minutes of the ESLG

(Program Information)
The management and security arrangements for the Program Information are set out below.

It is noted that after the Program Information leaves the control of ESLG and goes to Cabinet for consideration it will be subject to the cabinet in confidence processes. This Framework and in particular the management of Program Information is to protect the Program Information prior to it coming under the protection of the cabinet in confidence processes. This is in recognition of the risks that will attach to the Program Information in its compilation and transmission prior to any ESLG decision/recommendation and the concern that if such information is not so protected, then the confidentiality of the information is lost before it is able to receive the benefit of the cabinet in confidence processes.

Managing the Security of Program Information

All members of the Program Team have individual responsibility for the information they handle. As Program Team members, they must keep information confidential to the Program in a manner that protects that confidentiality.

Access to Program Information will be limited to Program Team members strictly on a need to know basis.

This means that confidential information should only be given to non Program Team members if the recipient establishes a “need to know” that information at that time in order for them to do their job. If the requirements of the need to know test are established, the recipient will be required to provide the necessary confidentiality documentation, before being provided with only that information that is required. The provision of such confidential information needs to be appropriately recorded by the Project team, including for eg in the minutes of the relevant meeting, or memorandum.

Whilst ESLG, Steering Committee and Working Group members may be from different agencies, entities and departments they are all within the public sector of the State. As such, regardless of which agency or department a Program Team member is engaged/employed by, each member is, as a result of being an employee of a “public sector entity”, bound by the obligations of the Public Administration Act.

Issues/information may arise in the Program which members want to share with non-Program Team members. The sharing of the information with a bigger group increases the potential for leakage of the information into the market. This is a critical risk area which must be managed to protect the integrity of the decision making processes within the Program.

Accordingly, it is imperative that all Program Team members be reminded (through this Framework) that they must act in the interests of the State (nominated as EMV for the
delivery of the Program) and in doing so, must not share Program information with other parts of their organisation or other parts of the State, without the express authorisation of the Chair, Working Group (and as such they pass the “needs to know” test). These processes will be detailed in the document management and meeting protocols of the Working Group.

Secure storage arrangements for Program Information will be implemented as follows.

- The Chair, Working Group (Chair) will determine (in consultation with the members of the Working Group) what Program Information can be shared with non-Program Team members.
- All electronic documents concerning the Program will be stored on a secure, central filing system and electronic access to Program-related documents and information will be restricted to members of the Program Team in accordance with their designated level of access.
- A clean desk policy applies so that sensitive and confidential Program-related documents and equipment will be returned to the secure storage area when they are not being used and will be securely stored at the close of each day.
- No Program-related information is to be released out of the Program or shared with non-Program Team members without prior written approval of the Chair and only where the security of the information can be guaranteed.

Further, it will be agreed at the conclusion of each Working Group meeting, Steering Committee meeting and ESLG meeting which information, if any, arising from the meeting, can be shared with which identified persons and for which purpose. This will be documented (with appropriate confidentiality considerations) in the minutes of the respective meetings.

In recognition of their existing employee statutory and/or contractual obligations, members of the Program Team\(^6\) will provide a confidentiality undertaking in the appropriate form set out in this Framework (see attached\(^7\)).

The same confidentiality documentation will apply to all Activities on the Program and therefore does not need to be signed on multiple occasions by Program Team members involved in more than one Activity.

Confidentiality undertakings are ongoing and will be obtained again from all members of the Program Team at appropriate milestones of the Program.

Where a member of the Program Team breaches or becomes aware they might have breached their confidentiality obligations, they will promptly inform the Chair, Working Group in writing setting out the details of the breach/potential breach. The Chair will consider and implement an appropriate response to the breach/potential breach.

At the completion of an Activity (and subject to the provision of the relevant Probity Plan):

- All electronic files of Program Information will be centrally and securely stored by the Chair, Working Group.

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\(^6\) Other than the members of ESLG who remain bound by their current documented probity procedures for the operations of ESLG

\(^7\) Or in a form as agreed by the Chair, Working Group/Probity adviser.
• All Program information on electronic files will be deleted from individual computers and memory sticks.
• All Program information on paper files will be returned to the Chair, Working Group.

Members of the Program Team will certify in writing to the Chair, Working Group that they have complied with these requirements.

Where a department, agency or advisor has legislative or policy obligations to retain materials beyond the conclusion of the Activity, the department, agency or advisor will advise the Chair, Working Group and alternative arrangements may be agreed which meet those obligations whilst also ensuring the security of the Program Information.

Members of the Program Team will comply with their obligations in respect of the creation, maintenance and security of Program records as required by the Public Records Act 1973 and standards set by the Keeper of Public Records in accordance with section 12 of that Act.

16. Dealings with Telecommunications Entities (business as usual rules)

Program team members may have “business as usual” (BAU) contact or other interaction activity contact with the supplier/vendor participants. These BAU contacts need to be undertaken, managed and documented in a way which protects the probity of the Program.

Members of the Program Team must adhere to the Probity Protocols (Communication) (attached) as follows:

• BAU activities and other project representations can continue, subject to consultation with and advice from the probity adviser with respect to specific activity, ie when the Program is reaching a “sensitive” stage, there is likely to be a requirement that some BAU interaction activity with a service provider by members of the governance structure take place, but be undertaken by other agency personnel.

• Not discuss the Program with or provide any non public information about the Program to any telecommunication entity representatives, associates or other interested persons.

• Direct enquiries about the Program from telecommunication entity representatives, associates or other interested persons to the appropriate member of the Program Team.

• Not discuss non public aspects of the Program with other agency or State Government Officers or any other parties except for purposes connected with the Program.

• Not solicit or accept any gifts, hospitality or offers of employment (including part time, full time, permanent, fixed term or casual) from a telecommunication entity. If such hospitality is directly connected to and part of the normal work of the member, they must discuss receipt of the hospitality with the Program Director.

Communication Protocols with Industry
To deliver on the Program objectives in a fair way for all industry participants, government is committed to ensuring that probity is adhered to by government and industry participants.

This Framework sets out the components of the probity requirements across the Program.

As in the previous LCTP, for government participants this includes restrictions on contact with industry participants, in particular:

- Industry participants will agree not to invite government participants to any hospitality or events that relate to future or current contracts, **without first sending the invite to emocp@emv.vic.gov.au and abiding by the State’s response**;
- Industry participants must not engage in any collusive or anti competitive conduct
- Industry participants must not seek non-public information about the Program from government participants
- Industry participants must abide by the Probity Protocols
- Breach of protocols may have consequences including disqualification from participation in the Program.

Further details of the probity requirements on industry participants can be found in the *Probity Protocols (Communication)*, which are attached.

### 17. Probity Framework Briefing(s)

All members of the Program Team are to attend a probity briefing as soon as possible after the commencement of the relevant Activity within the Program. This will be arranged by the Chair, Working Group.

Members of the Program Team who are appointed to the Program Team after the Program has commenced, or who are not available for the initial briefing will be given an individual probity briefing by the Probity Adviser.

### 18. Implementation of Probity Framework

The Chair, Working Group will facilitate the implementation of the following steps prior to the commencement of the Program:

- Obtain conflict of interest declarations
- Obtain confidentiality undertakings
- Establish confidentiality procedures and information security arrangements
- Disseminate protocols for Program and non-Program State employees and contractors

### 19. Dealing with Identified Probity Breaches and Unforeseen Probity Issues

When a probity issue arises, the member of the Program Team identifying the issue will provide a written report to the Chair, Working Group. The Chair, Working Group will promptly consider the issue and provide directions as to how the issue is to be dealt with. The Chair of the Working Group will seek legal and probity advice as required.

Documentation concerning each issue and the response will be filed as a record of the Program.
20. **Consequences for Non-Compliance**

All employees of the Victorian Public Sector are bound by the *Code of Conduct for Victorian Public Sector Employees* (*Code of Conduct*). Non-compliance with this Framework may also be a breach of the Code of Conduct and the *Public Administration Act 2004*.

Non VPS appointees are bound by the terms of their instruments of appointment and contracts, respectively. Non-compliance with this Framework may breach those instruments of appointment and contracts and will be dealt with according to procedures in place for statutory appointees.

A contractor that is appointed by the State to provide services for the Program will be required in the contract to comply with the relevant parts of this Framework that apply to the contract. Non-compliance by an external contractor may be dealt with as a breach of contract.

21. **Terminology**

In this Probity Framework, '**Program Team**' means the team appointed by EMV to work on the Program constituted by:

- Members of the Working Groups
- Members of ESLG
- Members of the Steering Committees
- Public sector employees of EMV or any other department or agency appointed to work on the Program, including the Chair, Working Group, Personal Assistant to the Chair, Working Group, Program Director, Team Leader and VPS 3, 4 and 5 public sector employees;
- Any non-VPS contractor appointed to work on the Program
- External consultants engaged by EMV, the departments or the agencies to work on the Program

This document also contains references to '**EMV Officers**', which means:

- Any public sector employee of the EMV, a Department (or the State) not appointed to work on the Program
- Any external contractor engaged by EMV, a Department to perform functions of EMV or a Department but not engaged to work on the Program.
Attachments

Attachment 1 – Deed of Confidentiality and Conflict Declaration
Attachment 2 – EMOC Program Probity Protocols (Communication)
EMOC Program
Probity Protocols (Communication)

Purpose

This document comprises the non-negotiable communication protocols which must be adhered to by government and industry participants throughout the Emergency Management Operational Communications Program (Program). The Victorian Government seeks to ensure that probity is maintained in all its commercial dealings and the Program Framework demonstrates that commitment.

The observance of probity is critical to the Government meeting the overall capability objectives in the Program, and the failure to adhere to probity requirements will put at risk the attainment of those Program objectives. The Government and the Program will suffer damage in the event any of these Protocols are not observed.

The further and detailed application of probity in the Program is set out in the Program Probity Framework and Probity Plans for the various major procurement activities of the Program. The protocols set out in this document are applicable to all relevant persons throughout each activity in the Program, including any Market Sounding/Engagement Phase.

The purpose of this document is to inform and guide the conduct of government participants in the Program, and guide the conduct of current contractors (incumbents) of the major components which comprise the current emergency services communications networks, together with other industry participants.

These protocols apply to all government participants, including ministerial advisers, Departmental Secretaries, departmental and agency personnel and involved in the Program and all incumbent entities who currently supply, manage and maintain emergency services communications networks and related services to the State of Victoria.

These protocols are informed by the probity principles, including:

(a) **Integrity and impartiality** – potential vendors will be treated equally and will be given the same information.

(b) **Consistency and transparency of process** – considerations of technologies and decisions in relation to technologies and vendors, including negotiations and outcomes will be made in the best interests of the State and its long term emergency telecommunications requirements.

(c) **Security and confidentiality** – the processes adopted for obtaining, considering, managing and disseminating Program information will seek to ensure the security and confidentiality of that information for the purposes of achieving the objectives of the Program and to protect (where appropriate) the intellectual property and proprietary of information of vendors.

(d) **Identification and resolution of conflicts of interest** – all persons involved in the Program on behalf of the State, will declare and address any actual or perceived conflict of interest prior to undertaking any role for the State in the Program.

(e) **Meeting general governmental requirements** - includes officials abiding by all relevant Acts and policies.

These protocols will be reviewed and may be updated from time to time.

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1 Personnel at government departments, emergency services organisations and any persons involved in the Program on behalf of any stakeholder of the State, including the constituent current contracts and sub Programs which make up or are related to the Program.
Protocols for Government Participants

Each Government Participant shall at all times observe the following protocols in relation to the Program.

(a) Whilst “business as usual” meetings (Meetings), being meetings that arise from the functioning of or are related directly to a relevant current contract, can continue with incumbents, those meetings are subject to the further protocols below.

i. Meetings must not occur when there are, at the same time, discussion or negotiation activities occurring with that contractor with respect to a current service, such as the MDN, MMR, EAS or RMR. The interaction between the market participants and the State with respect to those matters will be regulated by separate arrangements with the State.

ii. If, other than in the above specific contract activities, business as usual activities occur between the State and current contractors, such meetings must not include discussions about the Program, including any discussions about the possible content of any aspect of the direction or timing of the Program.

iii. Meetings must be documented by the government participant.

iv. Details of Meetings, if they are contract meetings, should be recorded by the Contract Manager, including in a meetings (sub) Register.

v. Details of Meetings with incumbents about the current contract with government participants other than the Contract Manager must be provided on request to emocp@emv.vic.gov.au for inclusion in the records of the Program, including a meetings register.

vi. The documentation with respect to meetings, including any register or sub registers will be available for inspection by the Probity Adviser (anne@daltonandassoc.com).

(b) Meetings do not include “events” sponsored by the incumbent relating to the current contract (Events).

(c) Events must not be endorsed or attended by government participants (except with the approval of the Program Director or delegate).

(d) Any invitation to hospitality or an Event (including a conference, demonstration or such event) from an incumbent or a known potential supplier is to be sent to emocp@emv.vic.gov.au for co-ordination as to the State’s response, if any.

(e) In the event incumbents and/or potential bidders seek meetings (which includes telephone calls, correspondence/emails or virtual meetings where information is requested/exchanged, including with third party intermediaries) about the Program or matters relating to the Program with government representatives, including Ministers and/or a Departmental Secretary, care should be taken to ensure that:

i. the meetings are documented by an appropriate government participant;

ii. only public information about the Program is disclosed; and
EMOC Program Probity Protocols (Communication)

iii. the same level and content of public information is given to each incumbent and/or potential bidder.

(f) Public information will be determined by reference to relevant press or other public releases at the relevant time. Any other information, being non public information will be confidential information and must not be disclosed, copied or repeated.

(g) A meetings sub-register is to be kept by or on behalf of EMV in relation to meetings about the Program between government participants and potential bidders. The details (date, location, name of participants and subject matter of meeting) of any such meeting should be provided promptly to emocp@emv.vic.gov.au for inclusion in the register.

(h) Any queries in relation to these protocols or the process generally should be referred to emocp@emv.vic.gov.au.

Protocols for Incumbents

Each Incumbent Entity shall be informed (through its relevant “government relations” contact”) of the above Protocols which bind government participants and will be requested to confirm in writing their entity’s (including all relevant personnel) observance of the following protocols:

(a) Any initiations from an Incumbent Entity to a government participant to any hospitality, events of any nature in any way relating to the current contracts or future state of the current contracts are only to be made to emocp@emv.vic.gov.au for co-ordination as to the State’s response, if any.

(b) Incumbents must not engage in any collusive or anti competitive conduct in respect of the Program.

(c) Incumbents must not seek non-public information from government participants about the Program. In the event that they receive any non-public information relating to the Program, which information was not created or is not otherwise owned by them, the Incumbents agree to return such information immediately to the Government, destroy any copies of information they hold and not use such information in any process whatsoever connected with the Program. In the event that an incumbent has any doubt as to the nature of the information they are in receipt of, they should immediately contact the Probity Adviser to the Program for guidance.

(d) Incumbents must not seek to induce a breach of any of the above Protocols by the Government participants, including the confidentiality, hospitality and the contact protocols.

(e) The incumbents may additionally be asked to execute Probity and Process deeds with respect to their conduct and participation in the Program.

In the event that incumbents are considered by the Government to be in breach of any of the above protocols, the Government may take appropriate actions, including considering disqualifying entities from participating in procurement activities in the Program.