

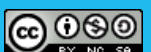


**CLEANING
ACCOUNTABILITY
FRAMEWORK**

Cleaning Accountability Framework Submission:

**Federal Department of Finance Industry Consultation –
Draft Commonwealth Supplier Code of Conduct
Submission of the Cleaning Accountability Framework**

29 February 2024



Federal Department of Finance Industry Consultation – Draft Commonwealth Supplier Code of Conduct Submission of the Cleaning Accountability Framework

About the Cleaning Accountability Framework

- i. The [Cleaning Accountability Framework \(CAF\)](#) is an independent, multi-stakeholder initiative that seeks to improve labour standards in the cleaning industry in Australia. CAF promotes decent work for cleaners, responsible contracting practices and transparent supply chains. We do this through the CAF [Building Certification](#) and [Cleaning Contractor Prequalification](#) Schemes, recognising and rewarding good practice in the industry.
- ii. We are one of the few genuine worker-driven due diligence schemes. CAF does ‘worker engagement’ as opposed to ‘social auditing’. While social auditing generally involves interviews with workers as part of an audit process, CAF’s worker engagement goes well beyond a social audit as it is designed to enhance worker agency. Worker engagement is essential to obtain greater buy-in from cleaners when it comes to improving labour conditions, and therefore leads to long-lasting improvements in compliance conditions compared to a point in time audit.
- iii. CAF has been recognised as an [anti-slavery mechanism](#) by leading business and human rights experts for our work of worker-driven compliance, robust third-party auditing, and tripartite collaboration and education.¹
- iv. CAF was born out of a recognition that ending exploitation of cleaners needs a multi-stakeholder, whole-of-supply-chain approach. The multi-stakeholder CAF engages all levels of the value chain and holds lessons for other industries. Further details regarding CAF’s approach can be found at our website.²
- v. CAF was founded in 2013 by AustralianSuper, the United Workers Union and a coalition of industry leaders that included the Fair Work Ombudsman, property owners, building managers, and cleaning contractors who shared the common aim of protecting cleaners from exploitation and driving responsible contracting practices in the cleaning industry.
- vi. CAF has assessed 49 commercial and retail sites nationally against our robust supply chain certification standard; the [CAF 3 Star Standard](#). and expanded to certify higher education providers in 2023. CAF has also awarded four cleaning companies CAF Prequalification Status (and is currently assessing four more).

¹Michael Rawling, Sarah Kaine, Emmanuel Josserand and Martijn Boersma (2021). “Multi-Stakeholder Frameworks for Rectification of Non-Compliance in Cleaning Supply Chains: The Case of the Cleaning Accountability Framework”. *Federal Law Review*, 49(3), 438–464,

² *Modern Slavery in Cleaning Supply Chains* Cleaning Accountability Framework (Web Page) <https://www.cleaningaccountability.org.au/modern-slavery/>

CAF Prequalification aligns neatly with the draft Commonwealth Supplier Code of Conduct

- vii. CAF applies the CAF 3 Star standard to both its [building certification](#) and [Contractor Prequalification](#) assessments. The CAF Standard comprises the following [six broad elements](#), many of which are similar to requirements of the proposed Commonwealth Supplier Code of Conduct (“draft Code”) and the model contract clause supporting the code (“clause bank”).

Assessed Elements of the CAF 3 Star Standard

- 1. Fair Labour Practices (including compliance with legislation and relevant industrial instrument)**
- 2. Responsible Contracting and Transparency.**
- 3. Safe Working Conditions.**
- 4. Financial Viability.**
- 5. Worker Engagement.**
- 6. Issue Identification and Remediation.**

- viii. Cleaning companies receive [CAF Prequalification](#) only after undergoing several robust assessments that show their management, human resources, and payroll systems effectively promote compliance with the CAF Standard, which includes adherence to relevant industrial instruments as well as Industrial Relations laws. These assessments include:
- Verifying that cleaning contractors’ HR systems, policies and procedures are set up to promote compliance with the CAF Standard (this includes an audit conducted by a forensic audit and accountancy firm in consultation with CAF).
 - Testing the contractor’s implementation of their systems and policies through worker engagement at a sample of the contractor’s worksites annually, through paid-time meetings conducted by our CAF Partner, the [United Workers Union](#).
 - Promoting good faith, collaborative relations between industrial parties to address issues of non-compliance with legal obligations and the CAF Standard.
- ix. The CAF Prequalification Scheme shares very similar objectives to the Draft Code, as both require assessments to demonstrate that a cleaning contractor has *“appropriate policies, frameworks or similar in place regarding ethics, governance and accountability”*. CAF’s processes also always include worker engagement, directly engaging with and verifying the effectiveness of the contractor’s systems with cleaners on the ground who perform the work.
- x. Given the potential introduction of mandatory supply chain due diligence for modern slavery risks following last years Modern Slavery Act review³, accreditation and certification schemes such as those provided by CAF may become increasingly important in assisting organisations meet regulatory requirements.

³ Recommendation 11, Report of the statutory review of the *Modern Slavery Act 2018* (Cth)

CAF Submissions regarding the specific provisions of the draft Commonwealth Supplier Code of Conduct

- xi. In general CAF commends the proposed draft Code as a proactive and positive initiative. However, CAF submits some improvements could be made in clarifying aspects of the code and providing some guidance to suppliers on specific compliance requirements. In CAF's view the current wording does not, in some instances, provide sufficient detail on how a supplier would comply with the requirements or satisfy the code. Areas where CAF suggests specifying more detail regarding suppliers' obligations include:
- xii. **Proposed clause 2.6** – CAF strongly agrees that suppliers “*should perform periodic evaluations of their facilities and operations and the facilities and the operations of their contractors*” but little guidance is provided as to what type of evaluation(s) should be performed and how a supplier would demonstrate these had occurred in compliance with the code. (CAF notes that suppliers in some industries may lack the resources or expertise to do this effectively).
- xiii. **Proposed Clause 3.2** – CAF makes a similar observation into this proposed clause and the obligation on suppliers to take “*all reasonable efforts*” to ensure that they (and organisations in their supply chain) are not “*engaged in, benefiting from or complicit in human rights abuses or modern slavery practice as defined thin the Modern Slavery Act*”. CAF notes that the proposed clause then goes to state that this obligation “*includes risk assessments*” and that the obligations will apply “*particularly in vulnerable industries*”. Again, and noting the broad range of practices which the proposed clause refers to, CAF notes that little detail is provided as to what “*reasonable efforts*” are, what risk assessments would be required and how suppliers would effectively demonstrate compliance.
- xiv. **Proposed Clause 3.4** – CAF notes that proposed clause 3.4 contains the requirement for suppliers to ensure “*their personnel*” receive their entitlements on time and are allowed to join (or elect not to join) unions and “*bargain collectively*”. We submit that the expression “*their personnel*” is a somewhat ambiguous statement and it is unclear if this extends only to direct employees or if a supplier would also need to ensure that, for example, employees of their subcontractors receive correct entitlements.

CAF is unclear what an obligation on suppliers to “allow” their personnel to “bargain collectively” involves. Simply “allowing” collective bargaining is, without more, an entitlement that all employees already have, provided the collective bargaining is carried out in accordance with the requirements of the *Fair Work Act*. CAF supports promoting constructive engagement and collaboration with registered employee organisations and collective bargaining. We note that a contractor's willingness to engage and collaborate with worker representatives such as the union is part of what CAF assesses in Building Certification and CAF Prequalification. CAF suggests the Code, in setting a positive example for industry, could require active support or facilitating collective bargaining, as opposed to merely “allowing” it (which Suppliers are already legislatively required to do).

The Clause Bank

- xv. CAF supports several proposed clauses in the clause bank and suggests that the following elements, in particular, would generally be necessary in contracts for the draft code to be effective:
- xvi. **Proposed Clause Bank subclause X.3** – Similar to CAF’s comments above this creates a positive obligation not only for suppliers to regularly monitor and assess their own compliance (and that of their subcontractors and agents) but to also be able to promptly demonstrate to the Customer the policies, frameworks or systems by which it does so. CAF again highlights that some suppliers may have difficulties understanding this requirement or knowing the steps required to effectively comply with it.
- xvii. **Proposed Clause Bank subclause sX.4 – x.5** – CAF strongly supports the positive obligation on suppliers to promptly declare details of any code breaches to customers and investigate any potential breaches identified by a customer. CAF utilises a multi-stakeholder model in its processes and it is CAF’s experience that issues are most effectively detected, investigated and remediated when there is proactive disclosure and transparency between all stakeholders in a supply chain (i.e. cleaning contractors, commercial building managers, building owners, and the relevant union).



CLEANING ACCOUNTABILITY FRAMEWORK

Contact us:

info@cleaningaccountability.org.au

www.cleaningaccountability.org.au