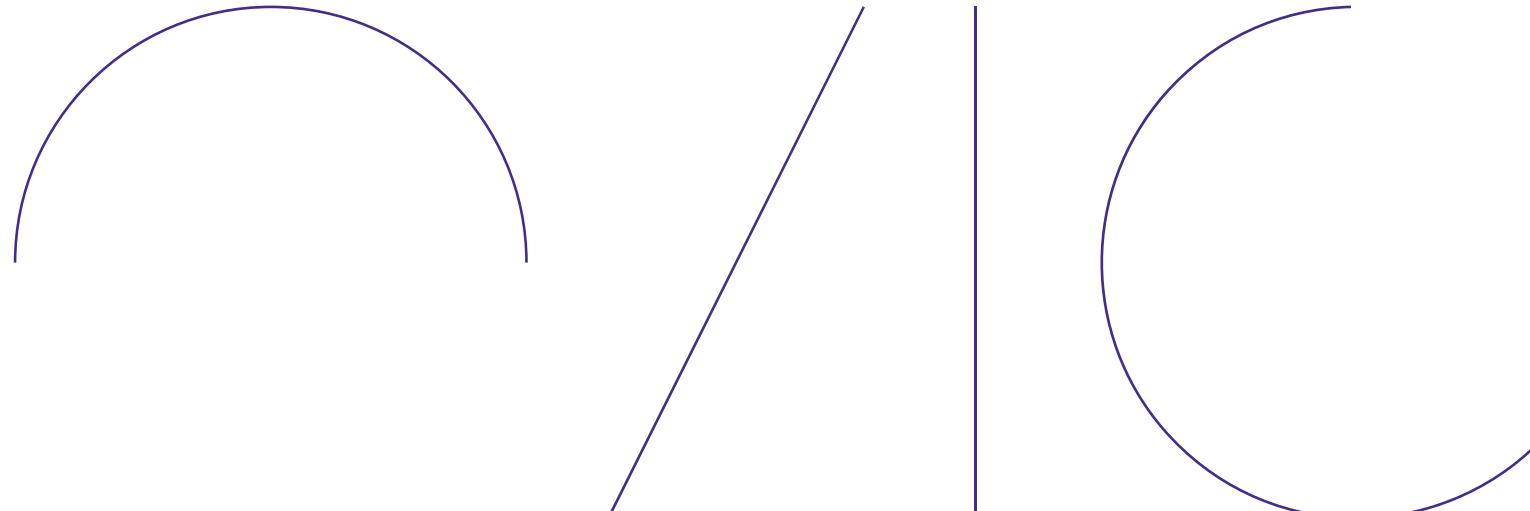


# OVIC guidance: Outsourcing in the Victorian public sector

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# Overview

1. What is outsourcing?
2. Obligations under the *Privacy and Data Protection Act 2014* when outsourcing
3. Expectations over the life of the outsourcing arrangement
4. Key points to remember
5. Publication of new guidance

# What is outsourcing?

When an organisation engages a third party to deliver a program or service on its behalf, or procures technology from a third party to deliver a program or service.

Examples include engaging a third party to:

- provide IT services, such as developing and maintaining websites, portals, platforms and webforms
- provide communication and customer service functions, such as call centres or emergency hotlines
- conduct community consultation and other stakeholder engagement activities
- perform administrative work, such as providing transcription services
- print and distribute physical correspondence
- provide recruitment services

# Obligations under the *Privacy and Data Protection Act 2014* when outsourcing

## Information privacy

- The Information Privacy Principles will apply where a third party engagement involves personal information.
- The contract can require the third party to be bound by the Information Privacy Principles in the same way, and to the same extent, as the outsourcing organisation for the purposes of the contract (section 17(2)).

## Information security

- The Victorian Protective Data Security Standards will apply where a third party engagement involves public sector information.
- An organisation cannot pass on liability for its information security obligations to a third party by contract (section 88(2)).

# Expectations over the life of the outsourcing arrangement

## Planning the outsourcing arrangement

- Identify the information involved and determine its value
- Identify any confidentiality or secrecy provisions
- Conduct due diligence on the third party and identify risks
  - Identify risks associated with the outsourcing arrangement (PIA and SRA)
  - Third party understanding of the privacy and security requirements it must adhere to
  - Third party resources to adhere to privacy and security requirements
  - Third party privacy and security culture
  - Engagement of subcontractors
  - Transfer of information outside Victoria
- Determine information privacy and information security measures necessary to mitigate risks

# Expectations over the life of the outsourcing arrangement

## The outsourcing contract

- Section 17 clause
- Roles and responsibilities
- Information privacy and information security obligations
- Incident management and complaint handling
- Access to information
- Compliance and oversight mechanisms
- End of contract information handling

# Expectations over the life of the outsourcing arrangement

## During the outsourcing arrangement

- Privacy policies and notices of collection
- Training and awareness
- Ongoing monitoring and assurance

## Ending the outsourcing arrangement

- Recordkeeping obligations
- Destruction or transfer of information held by the third party
- Final audit or report from the third party

## Key points to remember

1. Bind third parties to the IPPs and require third parties to bind subcontractors to the IPPs.
2. Section 17 clauses should be specific about which privacy law and privacy principles apply.
3. Even where a third party assumes liability for privacy obligations, an organisation remains liable for its own actions in relation to the contract.
4. Some functions or services may not be appropriate to outsource.
5. The value of the information should determine the information privacy and information security measures that are put in place to protect the information.
6. Due diligence should still be done on third parties from government supplier panels.
7. Contracts are not self-enforcing.



# Publication of new guidance

- Outsourcing in the Victorian public sector
- Short guide to outsourcing
- Summary of feedback from public consultation
- Updated case studies (forthcoming)

<https://ovic.vic.gov.au/privacy/resources-for-organisations/>

Questions or feedback can be directed to [enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au)

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