

## Queensland Government Supplier Code of Conduct 2023

### Guide for buyers on applying the Supplier Code of Conduct 2023 – Example clauses

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#### Background

The *Buy Queensland 2023* approach to procurement emphasises the government’s intent to do business with ethically, environmentally and socially responsible suppliers.

*Buy Queensland 2023* commenced 1 June 2023 and comprises the *Queensland Procurement Strategy 2023 – Jobs, Economy, Legacy, Confidence* and the *Queensland Procurement Policy 2023* (QPP 2023).

Clause 20 of the QPP 2023 outlines that invitation documentation must require suppliers to warrant that they comply with the Queensland Government Supplier Code of Conduct (Code). Contract documentation must include a condition requiring ongoing compliance with the Code during the contract term.

The Code outlines the expectations that the Queensland Government has of businesses that want to do business with government, and outlines what constitutes a responsible supplier. It has been strengthened to ensure modern slavery risks are addressed in vulnerable industries, and compliance with animal care and protection legislation and related requirements as applicable to suppliers of food and beverages to government. By ensuring supplier compliance with the Code, this demonstrates that government is leading by example in preventing harm through its procurement.

#### How to implement the Code

Consistent with the government’s ‘agency-led, centrally enabled’ model for procurement, each budget sector agency, statutory body, government-owned corporation (GOC) and special purpose vehicle (SPV) is responsible for implementing the Code within its procurement activities, as per Clause 20 QPP 2023.

Tender documents should state the government’s preference to do business with suppliers that meet the Code’s expectations. Tenders can also include targeted questions on aspects of the Code (e.g. a question could be specifically asked on cartel activity if there is a history of collusive activity in the market concerned). Alternatively, for more significant procurement activities, suppliers can also be asked to sign a supplier declaration to abide by the Code as part of their response.

This guide provides several example clauses for tender documents, guidance on how buyers could evaluate supplier responses, and example clauses that can be put into resulting contracts.

There is no policy requirement to apply a weighting to compliance with the Code. Where a weighting is to be used, it will need to be decided on a case-by-case basis relative to the procurement's context and other evaluation criteria. The Code can also be applied to require a 'yes/no' response which an agency could elect to make mandatory.

Budget sector agencies, statutory bodies, GOCs and SPVs are encouraged to take a simple pragmatic approach to implementation. The size of the supplier and nature of the procurement should inform how the Code is implemented. For example, it may be unrealistic to expect small and medium businesses, social enterprises or sole traders to have sophisticated workplace strategies, policies and practices. Having said that the Code does not prevent all types or sizes of businesses from implementing simple approaches to demonstrate their ethical, environmental and social credentials.

## Applying tender and contract clauses

The following tables include example clauses for use or adaptation in tender documents. These range from very generic and simple to more complex and can be targeted towards specific aspects of the Code. Before using any of these clauses carefully consider the complexity of the procurement, your market assessment and what benefits you are hoping to achieve.

The tables on the following pages include three columns:

- Column one lists example clauses that can be used, or adapted for use, in tender documents.
- Column two, 'How this would be evaluated' provides guidance on how to assess supplier responses against each question.
- Column three provides example contract clauses (where appropriate). If inserting such a clause, government buyers will also need to monitor supplier compliance, for example, by applying key performance indicators or standard contract management processes. If a supplier fails to comply, consideration may be given to possible suspension or termination actions as contained with the contract's terms and conditions.

*Note: The procuring government agency is referred to as the 'Customer' in the following tables. Terms which are capitalised in the tables are defined under the 'Definitions and Interpretation' document published as part of the standard terms and conditions for the procurement of general goods and services. These clauses are provided as examples and it is strongly recommended that you consider rewording to fit the required procurement, and to align with any agency specific terms and conditions. Buyers are encouraged to seek procurement and legal review in accordance with their agency procurement processes.*

## 1. General acknowledgement

### When would these provisions be suitable?

- ✓ to broadly raise awareness of the Code and the government’s intent to do business with suppliers who are ethically, environmentally and socially responsible
- ✓ procurement aimed at small and medium businesses
- ✓ routine procurement.

Response question	How this would be evaluated	Example clauses for inclusion in resulting contract
<p>Does your organisation warrant compliance with the expectations contained in the Queensland Government Supplier Code of Conduct 2023?</p>	<p>This question requires a ‘yes/no’ response.</p> <p>In the event of a ‘no’ response, evaluators may wish to seek advice as to whether the offer should be set aside from further consideration. To do this, the evaluation plan must have been written in a way that allows for this to occur. Care should be taken in preparing the evaluation plan accordingly.</p>	<p>The Supplier is to comply with all expectations as contained in the Queensland Government Supplier Code of Conduct 2023 for the term of this Contract. The Supplier is to notify the Customer, in writing, within ten (10) business days, should it cease to be compliant with the Queensland Government Supplier Code of Conduct 2023.</p> <p>The Customer reserves the right, at its sole and absolute discretion, to require the Supplier to provide confirmation of their compliance with the Queensland Government Code of Conduct Code 2023.</p> <p>The Queensland Government may, from time-to-time, update or amend the Queensland Government Supplier Code of Conduct 2023. The Supplier is solely responsible for informing themselves and ensuring compliance with any updated or amended Queensland Government Supplier Code of Conduct 2023. The Customer is under no obligation to inform the Supplier of any updates or amendments to the Queensland Government Supplier Code of Conduct 2023.</p>

## 2. Specific provisions

### When would these provisions be suitable?

- ✓ where it is necessary to address a specific area of concern within a particular supply market/industry (e.g. modern slavery risks)
- ✓ where a more formalised response to the Code is desired (through the 'Declaration')
- ✓ procurement aimed at medium to large businesses
- ✓ more significant procurements, and when setting up common-use supply arrangements.

Note: The 'General acknowledgement' questions in Section 1 can be used in addition to the below if needed.

Response question	How this would be evaluated	Example clause for inclusion in resulting contract
<p><b>To address a particular area of concern</b></p> <p>The Queensland Government Supplier Code of Conduct 2023 includes expectations related to &lt;&lt;insert area of concern&gt;&gt;. Please detail what action your organisation has and/or will take to ensure compliance with this expectation. Please provide supporting information in evidence of your response.</p>	<p>This will vary depending on the specific area of concern, and the methodology for evaluating this question as recorded in the evaluation plan.</p> <p>Key things to look for may include evidence of the organisation's internal policies or procedures, copies of relevant certifications or accreditations, or asking the supplier to complete a supplier questionnaire (e.g. acting against human rights exploitation in the supply chain including addressing modern slavery risks).</p>	<p><b>If the supplier, as part of its response, includes reference to a particular document, the following can be used</b></p> <p>The Supplier shall maintain its &lt;&lt;insert name&gt;&gt; for the term of this Contract. The Supplier is to notify the Customer, in writing, within ten (10) business days, should it cease to have &lt;&lt;insert name&gt;&gt; within its organisation.</p>
<p><b>Declaration</b></p> <p>In responding to this Invitation to Offer, the Supplier is to provide a signed declaration in relation to the Queensland Government Supplier Code of Conduct 2023.</p>	<p>This question requires a 'yes/no' response.</p> <p>It would be expected that suppliers sign the declaration.</p> <p>If a supplier does not sign the declaration, evaluators may wish to seek advice as to whether the offer should be set aside from further</p>	<p><b>The signed declaration forms part of the resulting contract – all relevant provisions are contained within the letter.</b></p>

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## Managing adverse responses during the tender process

In the event of negative or adverse responses to questions in tender documents, evaluators may wish to seek advice about whether to exclude the offer from further consideration. To exclude offers requires the evaluation plan to have included provisions for this to occur. It is therefore extremely important to ensure the evaluation plan is prepared accordingly.

Clauses which have been assigned a weighting, should be treated and scored in accordance with the evaluation plan and in line with other weighted requirements.

## Contract management

Contract requirements in relation to the Code should be monitored and managed regularly in the same way as other contract expectations such as quality and costs.

## Contact

Queensland Government Procurement is committed to continuous improvement.

If you have any suggestions about how we can improve this guide, please send your ideas to [betterprocurement@epw.qld.gov.au](mailto:betterprocurement@epw.qld.gov.au).

### Disclaimer

This document is intended as a guide only for the internal use and benefit of government agencies. It may not be relied on by any other party. It should be read in conjunction with the Queensland Procurement Policy 2023, the Queensland Procurement Strategy 2023 – Jobs, Economy, Legacy, Confidence, your agency's procurement policies and procedures, and any other relevant documents.

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