

# Ethical Supplier Threshold: Standard operating procedure '24

Queensland Government Procurement



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## The State of Queensland (Department of Energy and Climate) 2024



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### Contact us

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### 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, your agency's procurement policies and procedures, and any other relevant documents.

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### Administration

This version of the Procedure replaces the 'Ethical Supplier Threshold: Standard Operating Procedure' and takes effect from 24 May 2024.

## 1. Purpose

The *Ethical Supplier Threshold 2024* (the Threshold) and the *Ethical Supplier Mandate* (the Mandate) are complementary policies and an integral part of the *Buy Queensland* procurement approach and Queensland’s economic recovery plan.

Queensland Government is committed to supporting ethically, socially and environmentally responsible Queensland businesses and keeping the economy moving by backing small business. The Mandate and the Threshold support the overarching *Queensland Procurement Policy* (QPP) and keeping Queenslanders in quality, secure and safe local jobs.

The purpose of this *Ethical Supplier Threshold Standard Operating Procedure* (the Procedure) is to provide supplementary guidance to government buyers on the application of the Threshold throughout the procurement process; specifically in relation to identifying and referring alleged breaches of the Threshold to the Queensland Government Procurement (QGP) Compliance Branch.

This Procedure does not preclude Queensland Government buyers from complying with the requirements of the QPP. In accordance with the QPP, buyers are required to establish and maintain robust processes to manage contracts, including performance and renewal.

### This document should be read in conjunction with:

- the *QPP 2023*
- *Ethical Supplier Mandate 2024*
- *Guidelines: Ethical Supplier Mandate 2024*
- *Guidelines: Ethical Supplier Threshold 2024 and*
- *Ethical Supplier Mandate – Standard Operating Procedures 2024.*

The documents are available online at:

<https://www.business.qld.gov.au/running-business/marketing-sales/tendering/supply-queensland-government/ethical-supplier-requirements>

## 2. Scope

This Procedure applies to all Queensland Government procuring agencies managing suppliers subject to the Threshold (refer to procuring agencies within **Appendix 1 – Definitions**).

## 3. Application of the Threshold

The Threshold, as set out in **Clause 19** of the QPP, applies to all procurement undertaken by budget sector agencies, statutory bodies, government-owned corporations and special purpose vehicles from 1 August 2019.

**Clause 19** of the QPP states that: “The Queensland Government’s policy is to only deal with suppliers that have not:

- a. contravened a civil remedy provision of Chapter 2 or Chapter 3 of the *Fair Work Act 2009* (Cth), or committed an offence against the *Fair Work Act*;
- b. contravened a civil remedy provision of Chapter 2, 3, 4, 5, or 7 of the *Industrial Relations Act 2016*, or committed an offence against the *Industrial Relations Act*, or failed to pay employment related levies, or other payments, established under Queensland legislation;
- c. failed to make superannuation contributions on behalf of employees in accordance with law;

- d. purported to treat employees as independent contractors, where they are not;
- e. required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors;
- f. engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees;
- g. entered into an arrangement for the provision of labour hire services with a person who is not licensed under the *Labour Hire Licensing Act 2017*, or a supplier who is an unlicensed provider under the Act;
- h. paid employee wages below those provided for in an applicable modern award (including for people with disability, 'suppliers' must provide award-based wages (using the Supported Wage System where appropriate).

Suppliers doing business with government must comply with the Threshold.

Breaches of the Threshold may be taken into account by Queensland government when considering whether to contract with a supplier; however, a finding of a breach of the Threshold is separate from and does not preclude a finding and action by a relevant regulator.

### 3.1 Management of Threshold breaches

The table below outlines how breaches of the Threshold are managed, depending on when the breach occurred and what procurement category they fall under.

**Table 3.1** – Application of the Threshold

Application of the Threshold
For contracts entered into between 1 August 2019 to 30 August 2021
<ul style="list-style-type: none"> <li>• compelling evidence may be taken into account when considering supplier conduct, and</li> <li>• consequences for breaches are to be in accordance with those processes set out in the <i>Guidelines: Ethical Supplier Threshold 2019</i> (Threshold 2019). <ul style="list-style-type: none"> <li>- For entities to which the Mandate applied since 1 August 2019, refer to the below process.</li> </ul> </li> </ul>
Other
<ul style="list-style-type: none"> <li>• <u>between 1 August 2019 to 31 August 2021, for budget sector agencies for the procurement categories of Building Construction and Maintenance (BCM) and Transport and Infrastructure Services (TIS) or</u></li> <li>• <u>on or after 1 September 2021, all procuring agencies and procurement categories are managed using the following processes:</u> <ul style="list-style-type: none"> <li>○ compelling evidence may be taken into account when considering supplier conduct; and</li> <li>○ consequences for breaches are to be in accordance with those processes set out in the Mandate 2024 including: <ul style="list-style-type: none"> <li>- application of the policy of aggravated non-compliance</li> <li>- new categories of non-compliance set out in <b>Section 4.1</b> of the <i>Ethical Supplier Mandate 2024</i></li> <li>- application of the compliance processes, and penalties including referral to the Tripartite Procurement Advisory Panel (the Panel), and penalties set out in <b>Section 4.1</b> of the <i>Ethical Supplier Mandate 2024</i> to ensure there is equitable consideration and penalty applied to conduct which offends either the Threshold or the Mandate.</li> </ul> </li> </ul> </li> </ul>

- This means that any Threshold breaches (on or after 1 September 2021) relating to any Queensland Government contract under the QPP will be referred to the Panel.

## 4. What is a breach?

A breach of the Threshold is where a supplier has been considered by the state to have committed any of the breaches as listed in the Threshold (refer to *Guidelines: Ethical Supplier Threshold, Appendix 4 – Examples of breaches of the Threshold*).

### 4.1 Primary test: establishing breach

A supplier will be considered to have breached the Threshold if the decision maker, taking into account all relevant evidence and advice from the Tripartite Procurement Advisory Panel (the Panel), considers that ‘the supplier knew, or ought to have known’, that the conduct is a breach.

A supplier can only be in breach if the contract during which the breach occurred came into effect on or after the Threshold commenced 1 August 2019.

In forming their breach recommendation, the Panel deliberate on various sources of evidence to determine whether it is reasonable to expect the supplier should be aware of its contractual obligations, including but not limited to the following:

Evidence considering by Panel regarding supplier
<ul style="list-style-type: none"> <li>• <u>knowledge, awareness and experience in dealing with the Queensland Government’s contractual terms and conditions</u> (inclusive of Mandate-related clauses)</li> </ul>
<ul style="list-style-type: none"> <li>• <u>tender documentation</u>, such as submission, letter of acceptance or Formal Instrument of Agreement and the contractual terms and conditions relating to the project.</li> </ul>
<ul style="list-style-type: none"> <li>• <u>ability to review and vary the contract’s terms and requirements under the Mandate, where relevant (i.e., improved compliance management)</u>.</li> </ul>
<ul style="list-style-type: none"> <li>• <u>the signed contract</u> (with the Threshold requirements embedded)</li> </ul>
<ul style="list-style-type: none"> <li>• <u>contract or performance management meetings</u> between the procuring agency and the supplier.</li> </ul>
<ul style="list-style-type: none"> <li>• <u>previous history</u> such as: <ul style="list-style-type: none"> <li>- the number of previously active contracts with the Queensland Government</li> <li>- the number of previous audits conducted by the QGP Compliance Branch.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• <u>organisational structure and capability</u> supporting capability to meet Mandate/Threshold <ul style="list-style-type: none"> <li>- financial capability (such as supplier annual turnover)</li> <li>- number of employees the supplier engages</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• <u>response to the QGP Compliance Branch’s requests for information</u>, including show cause and extenuating circumstances notices.</li> </ul>
<ul style="list-style-type: none"> <li>• <u>recordkeeping</u> (whether the organisation has adequate mechanisms to ensure compliance)</li> </ul>
<ul style="list-style-type: none"> <li>• <u>resources</u> such as whether the supplier has been provided the <i>Building and Construction Training Policy: Evidence Guide</i> by the procuring agency or the QGP Compliance Branch <ul style="list-style-type: none"> <li>- noting this is guide only to support application, not policy.</li> </ul> </li> </ul>

**Note:** Industrial relations breaches in 4(a) of **Section 4.1** of the *Ethical Supplier Mandate 2024* only relate to matters that are not breaches of the Threshold, but breaches of the contract.

## 4.2 Secondary test: supplier conduct

The Panel and the decision maker also consider whether the supplier's conduct was deliberate, negligent and/or repeated.

It is important to note that the secondary test is optional and not a requirement for a breach to progress.

## 5. Assessment of a breach

From 1 October 2023 for an initial period of 18 months, the QGP Compliance Branch are responsible for managing investigations into potential breaches of the Threshold and refer regulatory matters to regulators or law enforcement agencies.

When the QGP Compliance Branch is conducting the investigation, it assumes the requisite authority, roles and function for the duration of the compliance process under the Threshold (refer to **Appendix 1 – Definitions**).

The table below outlines how Threshold breaches should be assessed, differentiating between the responsibilities of the procuring agency and the QGP Compliance Branch.

**Table 5** – Assessing breaches of the Threshold

Assessing breaches of the Threshold
Scope
<p><u>The procuring agency and/or QGP Compliance Branch will first:</u></p> <ul style="list-style-type: none"> <li>• determine whether the Threshold applies: <ul style="list-style-type: none"> <li>○ both the contract commenced and the breach occurred, after 1 August 2019.</li> </ul> </li> </ul>
Role of the procuring agency
<p><u>The procuring agency should:</u></p> <ul style="list-style-type: none"> <li>• contact QGP Compliance Branch for advice</li> <li>• conduct its own initial enquiries where it reasonably suspects that a supplier is not complying with the Threshold;</li> <li>• undertake its usual contract management processes for a suspected breach of contract;</li> <li>• make a determination whether there is sufficient evidence to warrant referral to the QGP Compliance Branch for further investigation; and</li> <li>• where sufficient evidence exists, refer the matter to the QGP Compliance Branch for further action (it is strongly recommended a single point of contact (SPoC) is included). <ul style="list-style-type: none"> <li>○ <b>If the procuring agency identifies the conduct falls under the Threshold, it is required to refer the matter to the QGP Compliance Branch.</b></li> </ul> </li> </ul>
Role of the QGP Compliance Branch
<ul style="list-style-type: none"> <li>• assess matters received from procuring agencies, and provide advice as required;</li> <li>• investigate and manage matters received through audit or complaint; <ul style="list-style-type: none"> <li>○ If the QGP Compliance Branch identifies the conduct falls under the Threshold, it is required to refer the matter to the appropriate regulator or law enforcement agency to investigate.</li> </ul> </li> </ul>



- refer Threshold breaches to the Panel
- In addition, for breaches on contracts:
- from 1 August 2019 to 31 August 2021 for budget sector agencies for the procurement categories of BCM and TIS, and
  - on or after 1 September 2021 for all procuring agencies and procurement categories,
- the matter must also be referred to the Panel for consideration and recommendation of penalty using the processes and penalties provided in the Mandate where it has compelling evidence which indicates that certain types of breaches did occur – refer to **Sections 4.1 and 5.4** of the *Guidelines: Ethical Supplier Mandate*.

## 6. Pre-contract: embedding the Threshold

Procuring agencies must follow the below steps prior to executing a contract with a supplier.

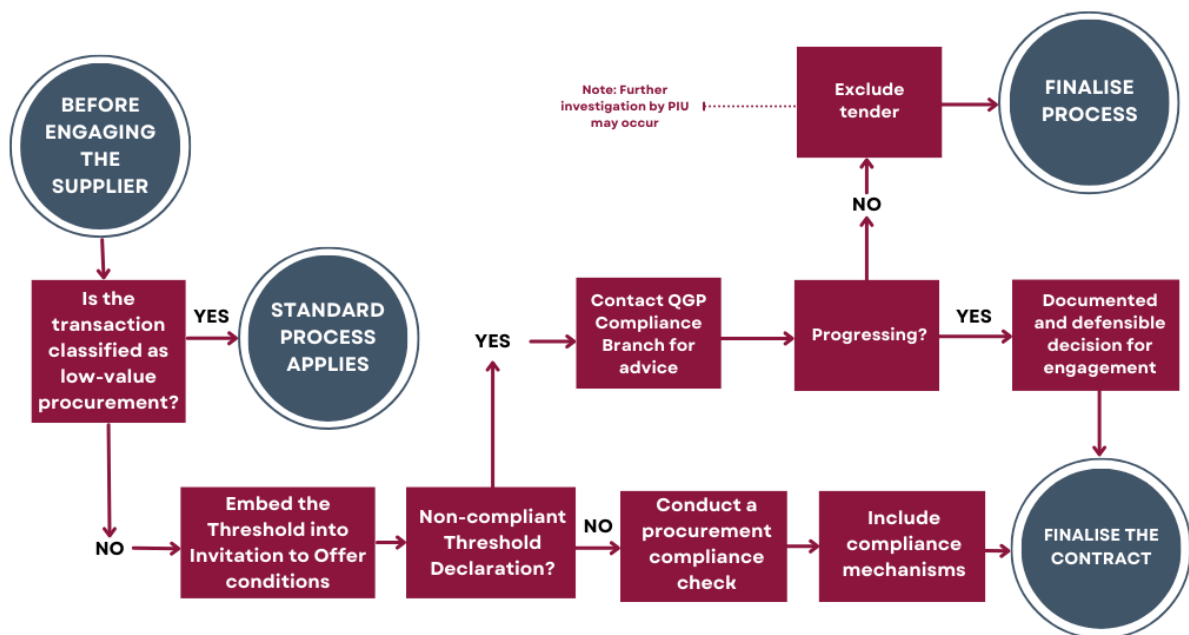


Diagram 6 - Embedding the Threshold

### 6.1 Invitation to Offer (ITO) conditions

Suppliers tendering for Queensland Government procurement must be compliant with the Threshold. The Threshold will apply to all government procurement with the exception of some international procurement (refer to **Appendix 3c** – International procurement).

Procuring agencies must ensure a Threshold declaration is completed as part of the Invitation to Offer (ITO) documents, which is a mandatory step for the tender to be considered further.

These ITO conditions contain provisions which govern the invitation process, including any offers submitted by potential suppliers. The Threshold must be embedded from the ITO stage through to the award of the contract.

<b>Tender documents must include:</b>
<ul style="list-style-type: none"> <li>• a Threshold declaration (see <b>Appendix 2</b> for an example).</li> </ul>
<ul style="list-style-type: none"> <li>• <u>confirmation the supplier will cooperate</u> with the following, including providing any requested documents related to compliance with the Threshold to:             <ul style="list-style-type: none"> <li>○ the QGP Compliance Branch</li> <li>○ procuring agency, and</li> <li>○ any relevant regulatory bodies for compliance and investigative purposes.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• <u>information sharing mechanisms</u> enabling evaluation panels to contact regulatory bodies as required to verify compliance information about a supplier including but not limited to:             <ul style="list-style-type: none"> <li>○ Work Health Safety Queensland (WHSQ)</li> <li>○ Queensland Building and Construction Commission (QBCC)</li> <li>○ Fair Work Commission (FWC)</li> <li>○ Fair Work Ombudsman and</li> <li>○ Australian Taxation Office (ATO).</li> </ul> </li> </ul>

## 6.2 Ethical Supplier Threshold declaration

Suppliers are required to declare in their tender response whether they comply with each aspect of the Threshold by completing a Threshold declaration (see **Appendix 3**).

A supplier answers:

- 'no' to declare that they are **not** in breach of the Threshold, or
- 'yes' to declare they **are** in breach of any of the Threshold criteria.

### 6.2.1 Non-compliant Threshold declaration

If a procuring agency receives a non-compliant Threshold declaration, the procuring agency should first clarify with the supplier if their 'yes' response (to declare a breach) is a correct determination. If confirmed, the procuring agency must then enquire with the supplier about the circumstances of the breach (e.g., confirm scope).

Depending on the tender conditions, the offer may be considered non-conforming and must be treated by the evaluation panel in accordance with the tender conditions.

See the table below for guidance on what kind of questions to ask the supplier. This information is a guide only to assist procuring agencies in gathering applicable information as per the alleged breach.

**Table 6.2.1 – Information to consider when referring an allegation**

Information to consider when referring an allegation / seeking advice	
<b>Scope</b>	<ul style="list-style-type: none"> <li>• When did the alleged breach occur (e.g., date range of when the conduct occurred)?</li> </ul>
<b>Project</b>	<ul style="list-style-type: none"> <li>• Did the breach occur on a Queensland Government project (or contract / service agreement)? If yes,             <ul style="list-style-type: none"> <li>- Who was the procuring agency managing the contract?</li> <li>- What was the project?</li> <li>- Contract reference number (if known).</li> </ul> </li> </ul>

<b>Type</b>	<ul style="list-style-type: none"> <li>• What kind of alleged breach is it (e.g., wage theft or industrial relations)?</li> </ul>
<b>Source</b>	<ul style="list-style-type: none"> <li>• How did you become aware of the allegation?</li> </ul>
<b>Contract</b>	<ul style="list-style-type: none"> <li>• A copy of the contract relating to the project/activity on which the alleged breach occurred or is related to.</li> </ul>
<b>Impact</b>	<ul style="list-style-type: none"> <li>• What was the scope of the impact? For example, how many people are affected, scale of underpayments?</li> </ul>
<b>Evidence</b>	<ul style="list-style-type: none"> <li>• What evidence, if any, supports the allegation?</li> </ul>
<b>Rectification</b>	<ul style="list-style-type: none"> <li>• Is there any known rectification?</li> </ul>
<b>Regulator</b>	<ul style="list-style-type: none"> <li>• Is there any regulator involvement or decision?</li> </ul>
<b>Media</b>	<ul style="list-style-type: none"> <li>• Is there any available media (e.g., Fair Work statements or news releases)</li> </ul>
<b>Single Point of Contact (SPoC)</b>	<ul style="list-style-type: none"> <li>• A preferred contact from: <ul style="list-style-type: none"> <li>- the referring agency and</li> <li>- the supplier</li> </ul> </li> </ul> <p>to enable the QGP Compliance Branch to seek further clarification if required.</p>

This information will:

- assist the procuring agency to decide how it will treat the supplier's offer under the particular tender conditions (see **Section 4.1**).
- assist the QGP Compliance Branch in providing initial advice and potential further investigation.

Once agencies have finalised initial enquiries, they must forward non-compliant Threshold declarations including details of the matter to the QGP Compliance Branch via [ethicalsupply@epw.qld.gov.au](mailto:ethicalsupply@epw.qld.gov.au).

The Strategy and Coordination Unit (SCU) (in consultation with the Procurement Investigation Unit (PIU) where applicable), will:

- advise the procuring agency if it can proceed with the tender or whether the agency needs to consider discretion;
  - this will be considered on a case-by-case basis. Factors include whether an investigation is underway or completed, the significance of the alleged breach, etc.
- refer the matter to PIU for further investigation (where relevant); and
  - an email will be sent to the procuring agency advising that the matter is now being considered by PIU for further investigation of non-compliance under the Mandate for breach of the Threshold.
    - Noting that investigations can be significant (in both time and resources) this matter will be considered closed for the purposes of the non-compliant Threshold declaration.

- provide a reference number for both the buyer and supplier regarding the matter;
  - the supplier is strongly encouraged to use this reference number in future engagement with the Queensland Government to avoid re-prosecution of the same matter.

Procuring agencies should not proceed with any tenders where an alleged breach has been declared by the supplier until the QGP Compliance Branch provides this advice.

### 6.2.2 Possible exclusion from tender process

If the procuring agency obtains evidence that the breach occurred (e.g., the procuring agency has obtained evidence from sources other than the supplier declaration), in addition to the matter being referred to a regulator, the supplier's offer may be considered non-conforming.

Depending on the tender conditions and the specific circumstances, the Chief Procurement Officer (CPO) or equivalent within the procuring agency may decide to:

- either exclude the offer from the evaluation process; or
- continue with the application as a non-conforming offer in certain limited circumstances (e.g., where the breach was unintentional, self-reported, or rectified including by system improvements to ensure no repeated occurrence).

Where the procuring agency decides to proceed with a non-confirming offer the decision must be documented and defensible (see QPP **Clause 46**).

## 6.3 Conduct a procurement compliance check

The QGP Compliance Branch maintains the Procurement Compliance Portal (the Portal), to record all instances of supplier non-compliance under the Mandate or breach of the Threshold. It is available here: <https://www.forgov.qld.gov.au/complete-supplier-check/>.

When evaluating tender submissions and intending to finalise an arrangement with a preferred supplier, procuring officers must conduct a procurement compliance check of the Portal to ensure that a potential supplier is not the subject of a current sanction.

The Portal will provide:

- current penalties a supplier is subject to, and
- a supplier's full history of breach of the Threshold.

When considering multiple suppliers, the Portal assists procuring agencies in considering the risk of a supplier approaching sanction.

Sanctioned suppliers will be removed from all pre-qualified supplier lists and will appear as a sanctioned supplier when searched on the Portal.

An overall list of sanctioned suppliers is not available from the Portal.

Rather, procuring officers conduct point in time searches, which includes breach of the Threshold, including any current sanctions.

At the time suppliers are sanctioned this information is distributed to both:

- The owners of pre-qualified registers, and
- The Heads of Procurement Network (HoPN).

All procurement is subject to a risk-based approach. If a preferred supplier has been issued a penalty previously or has active demerit points, the procuring agency must exercise due diligence when engaging the supplier (including subcontractors) proportionate to the risk. All such engagements must be documented and defensible.

Procuring officers must request access to the Portal by completing the access form and submitting that they are a Queensland Government procuring officer for the purposes of the check by using a valid email address.

The Portal keeps a record of all the search results procuring officers have undertaken within their Portal account. Procuring officers may also download and save all search results for recordkeeping purposes.

### 6.3.1 Exemptions

Procuring agencies engaging suppliers do not need, but are encouraged to, conduct a procurement compliance check prior to awarding a contract, in the following circumstances (see **Table 6.3.1** below).

**Table 6.3.1** – Exemptions from conducting a compliance check

Exemptions from conduction a compliance check
Low-value procurement
<ul style="list-style-type: none"> <li>- If the purchasing threshold of the procuring agency for a procurement activity is below \$20,000 (per purchase or order),</li> <li>- The intent of the <i>Buy Queensland</i> policy and the overarching QPP (including the Mandate and Threshold) to engage with ethically, socially, and environmentally responsible suppliers still applies.</li> <li>- A Portal check is not required.</li> <li>- QGP Compliance Branch will notify Heads of Procurement Network (HoPN) and Chief Procurement Officers (CPOs) when a supplier is sanctioned.</li> <li>- Procuring agencies must refer to notifications from Heads of Procurement Network (HoPN) and Chief Procurement Officers (CPOs) to ensure they do not engage sanctioned suppliers.</li> <li>- Sanctioned suppliers will be removed from pre-registered arrangements e.g., Standing Offer Arrangements (SOAs), and (HoPN) and (CPOs) will be notified.</li> </ul>
International suppliers
<ul style="list-style-type: none"> <li>• Where the supplier does not have an Australian business presence (e.g., no office established in Australia and no Australian Company Number) the procuring agency will be unable to conduct a procurement compliance check on the Portal.</li> <li>• The Portal is linked to the Australian Business Register (ABR), therefore if the supplier has an Australian Company Number (ACN) or Australian Business Number (ABN), the procuring agency will be able to conduct a procurement compliance check on the Portal.</li> </ul> <p><b>Alternatively:</b></p> <ul style="list-style-type: none"> <li>• Procuring agencies should perform due diligence searches on employment related records, verifying alignment with the intent of the Threshold and Mandate.</li> <li>• The results of these enquiries must be documented for recordkeeping and defensible for breach assessment purposes.</li> <li>• When engaging with an international supplier the degree of due diligence should be commensurate with the procurement; for example, high risk or high value procurement</li> </ul>

would invite a higher degree of scrutiny for alignment with the Queensland Procurement Policy, including the Mandate and the Threshold

#### Supplier pre-registered on the following arrangements

- The Prequalification System of the Building Policy Framework,
- The National Prequalification System for Civil (Road and Bridge) Construction Contracts,
- Arrangements administrated by General Goods and Services, Department of Energy and Climate, and/or
- QBuild as a pre-qualified supplier.

The QGP Compliance Branch will facilitate the removal of a supplier from the above channels if they have been excluded from doing business with the Queensland Government (suspended or sanctioned).

## 6.4 Include the Threshold within contracts

From 1 August 2019, all contracts are required to include an obligation on suppliers to comply with the Threshold during the contract term.

Category lead agencies are responsible for reviewing and updating contract documentation to include clauses reflecting the Threshold requirements to be used by government agencies. This includes standard terms and conditions and standard contract suites.

If a supplier was non-compliant with the Threshold when tendering but permitted to tender as set out in **Section 6.2.1** above, then the standard clauses may need adjustment to allow for the past breach of the Threshold as part of risk management.

### Procuring agencies must therefore ensure the contract requires a supplier to:

- declare compliance with the Mandate or Threshold requirements;
- provide information as requested by the procuring agency or QGP Compliance Branch, relating to compliance with the Mandate or Threshold (to allow for evidence gathering);
- give permission to obtain relevant compliance information from any relevant regulators and/or law enforcement agencies;
- ensure records are kept evidencing compliance to their commitments on the project (including compliance with any awards); and
- require its subcontractors to meet these same requirements.

See **Appendix 2** – Example clauses incorporating the Threshold.

### 6.4.1 Including subcontractors

Principal contractors must use their best endeavours to not engage suppliers that have been sanctioned under the Mandate or the Threshold when doing business with government. Principal contractors who are found to have failed to use best endeavours in their subcontracting practices including engaging sanctioned suppliers may be found noncompliant under the Mandate and subject to penalty.

Procuring agencies should ensure principal contractors include necessary provisions in all subcontractor arrangements applying the Threshold (and the Mandate), specifically committing the subcontractor to:

- access to information and
- cooperation with investigating a potential non-compliance.

Refer to **Appendix 3** for these and other example subcontractor clauses.

**Table 6.4.1** – Principal contractors: examples for applying the Threshold to subcontractors outlines examples of what actions a principal contractor might take to ensure subcontractors are covered by the Threshold.

<b>Principal contractors – examples for applying the Threshold to subcontractors</b>	
✓	<p><u>checking with procuring agencies to ensure the subcontractors engaged on the project are not currently sanctioned.</u></p> <ul style="list-style-type: none"> <li>- by providing procuring agencies the ABN / ACN's of subcontractors to enable a point-in-time Portal compliance check.</li> </ul>
✓	<p><u>ensuring contracts with subcontractors include relevant Threshold-related clauses that:</u></p> <ul style="list-style-type: none"> <li>- specify a requirement for compliance with the Threshold,</li> <li>- acknowledge that penalties can apply for breach of the Threshold,</li> <li>- provide principal contractors the ability to terminate the contract where a breach occurs, and</li> <li>- require the subcontractor to provide information or any relevant documents to demonstrate compliance to the principal contractor or the QGP Compliance Branch as requested.</li> </ul>
✓	<p><u>requesting and obtaining relevant Threshold related information:</u></p> <ul style="list-style-type: none"> <li>- where contractually enabled, the QGP Compliance Branch will request and obtain information relevant to the investigation.</li> <li>- for matters not contractually enabled, it will be the responsibility of the procuring agency and principal contractor to request and obtain relevant information.               <ul style="list-style-type: none"> <li>○ suppliers, including subcontractors, who fail to provide relevant information as requested can be penalised under the Mandate.</li> </ul> </li> </ul>
✓	<p><u>taking appropriate action if the principal contractor becomes aware that the subcontractor has been in breach of the Threshold.</u></p> <ul style="list-style-type: none"> <li>- advising the contract manager / procuring agency; and</li> <li>- taking any action as per the contract as required.</li> </ul>

Refer to **Appendix 5** for further information on the investigation process.

## 6.5 Include compliance mechanisms

In addition to considering the requirements of the QPP when establishing contractual terms, it is advisable, procuring agencies include relevant compliance tools as required. This is particularly important when considering risk management in significant and high-risk procurement.

For example:

- Liquidated damages – inclusion of these clauses should be considered where monetary compensation is an appropriate deterrent against suppliers avoiding specific contractual costs (e.g., wages, superannuation etc).
  - These clauses are intended for use in the BPP projects and significant procurement as defined in the QPP. See **Appendix 3** for example clauses.

- Publication of information about sanctions – inclusion of these clauses should be considered where the potential reputational or brand risk is an appropriate deterrent against supplier non-compliance (e.g., international suppliers).

Combined with standard contract management such as regular tracking and reporting, such compliance mechanisms will support buyers in managing unethical behaviour and assist with early identification of potential breaches. It is recommended that procuring agencies seek their own legal advice before applying these specific clauses.

## 6.6 Finalise the contract

The procuring agency must ensure all Threshold commitments are:

- embedded prior to finalising an arrangement,
- clearly stipulated and detailed in nature, and
- measurable.

For commitments which have measurable outcomes, these should be specified and included, so audits and investigations can easily occur.

These commitments must provide an explanation of:

- the Threshold requirements, and
- the implications on suppliers for any breach of the Threshold performed in/on the contract.

This enables the supplier to have a complete and comprehensive understanding of its obligations and ensures proper contract management of potential breach during and after the contract finalises.

Procuring agencies should also ensure that principal contractors understand their responsibility to enforce the Mandate throughout the supply chain, especially when subcontractors are involved in the project. Refer to **Appendix 6** for some applicable evidence types and examples, including industrial relations and workplace health and safety.

## 7. During the contract: monitoring compliance

Once the preferred supplier has been engaged, conduct the following steps to ensure compliance with contractual terms and the Threshold as per the below diagram.



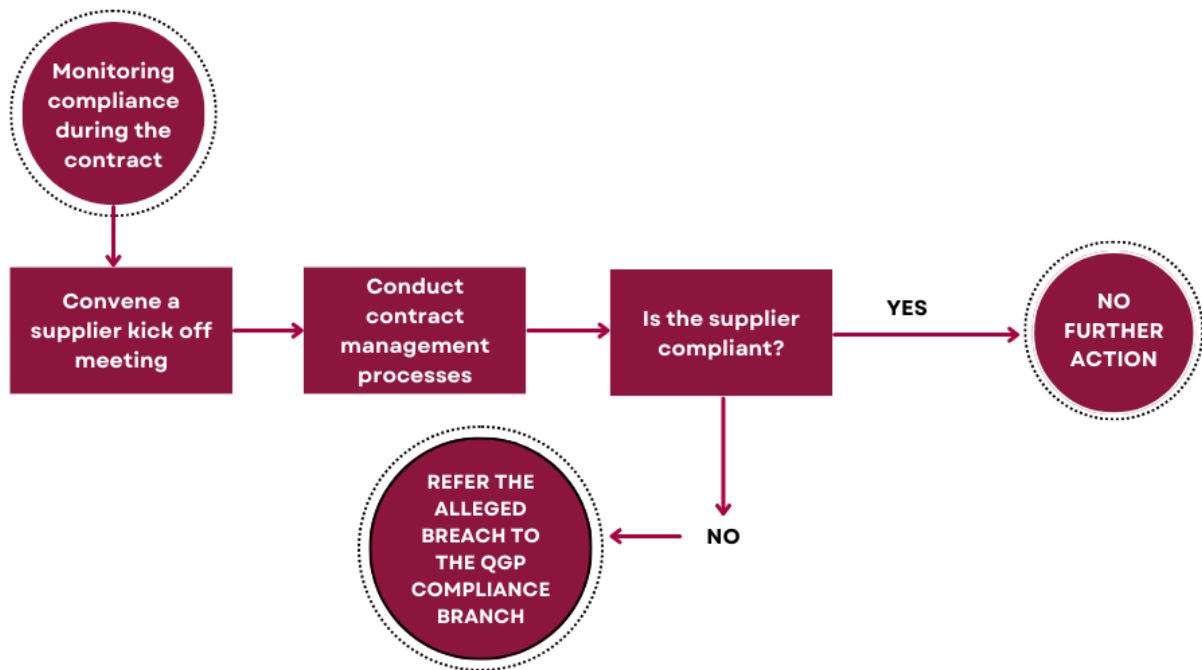


Diagram 7 - Monitoring compliance during the contract

## 7.1 Convene a supplier ‘kick-off’ meeting

Procuring officers should hold a ‘kick-off’ meeting, between all parties subject to the contract at a practical time after execution. The meeting will clearly outline strategies for successfully fulfilling the contract requirements and implementing the Contract Management Plan (CMP) (as per the *Queensland Government Contract Management Framework* and best practice procurement).

### 7.1.1 Establish reporting requirements

It is important that both the procuring agency and the supplier agree to regular reporting and tracking mechanisms, particularly regarding managing breaches of Threshold commitments.

Regular reporting is likely to indicate to both parties, potential inability to meet contractual commitments and provide early indicators of any concerns that may be managed through contract management processes.

## 7.2 Conduct contract management processes

Successful contract management is a key component in the implementation of the Threshold, resulting in more compliant outcomes and highlighting avoidable breaches.

Once key performance indicators (KPIs) and regular reporting is established at the beginning of the contract, contract managers can:

- use these to track key measurable outcomes; and
- act as early warning signals, promoting a precautionary approach where further action might be needed (e.g., meeting with the supplier to discuss concerns or complaints, further investigation / referral to relevant regulators and corrective action when necessary).
  - Refer to **Section 11.1** for further guidance on referring alleged breaches.

Discrepancies or anomalies detected at any stage of the contract, particularly through assessing performance reports, may indicate potential breaches of the Threshold.

The breach process may be performed at any point in the life cycle of the contract (i.e., on foot or concluded), as appropriate and will commonly occur as an outcome to a contract management process. It is important to note that investigation into alleged breaches on Queensland Government contracts can occur at any stage throughout the lifecycle of the contract or after the contract is finalised.

In particular, procuring agencies must ensure suppliers are not subject to regulator infringements and resulting penalties during the contract. This information could be obtained from audits (e.g., WHS), regulator websites, etc.

If the supplier is subject to a breach of law under the contract, procuring agencies should ensure rectification details are obtained and recorded, or standard contract management processes are exercised, including termination of the contract, should these breaches be significant in nature.

For additional information, refer to the *Queensland Government Contract Management Framework* at <https://www.forgov.qld.gov.au/finance-and-procurement/procurement/procurement-resources/search-for-procurement-policies-resources-tools-and-templates/contract-management-framework>.

## 7.2.1 Contract variations

All Queensland Government tender and contract documentation from 1 August 2019 must include the Threshold. There may be some arrangements (e.g., pre-dating this period or awaiting renewal) that do not include the Threshold.

All reasonable efforts should be made to include the Threshold for such arrangements, including through contract variation. For example, scenarios where contract extensions are being considered.

## 8. Confirmed legislative breaches

Procuring agencies must refer alleged breaches to the PIU via [QPPCompliance@epw.qld.gov.au](mailto:QPPCompliance@epw.qld.gov.au) for investigation; including matters where they receive evidence of a regulator outcome (refer to **Section 3.7.3** within the *Guidelines: Ethical Supplier Threshold*).

**This includes regulator outcomes regarding:**

- non-compliant Threshold declarations, and
- contracts on foot.

It is then the responsibility of the PIU to follow up any regulator referrals, (including if relevant any appeals).

Refer to **Section 3.7.3** within the *Guidelines: Ethical Supplier Threshold* for further information.

## 9. Penalty framework for breaches of the Threshold

Where a supplier has engaged in a contract on or after 1 August 2019 with a procuring agency covered by the QPP, and that conduct constitutes a breach of the Threshold, the supplier may be subject to penalties. Refer to **Section 4.1** within the *Ethical Supplier Mandate 2024* for the compliance framework managing breaches of the Threshold.

**A single breach of the Threshold results in a penalty of:**

- Twenty (20) demerit points; and
- Consideration of a sanction (a sanction is a penalty that prevents the supplier from doing business with Queensland Government for up to 12 months from the date of the decision).

Sanctions can include:

- suspending a supplier's prequalification for a defined period,
- making a supplier ineligible for contract award for a defined period,

- not exercising contract extension options,
- suspending a supplier from the relevant panel or contracting framework for a defined period, and
- a suspended sanctions penalty, pending successful implementation of any recommended corrective actions.

Sanctions affect access to future contracts, not current contracts. However, where a supplier is sanctioned and has an existing contract with government, extension options under that contract will not be exercised.

If the procuring agency has the authority to publish information about the imposition of the penalty (i.e., contractually enabled), the procuring agency can publish information disclosing the sanction.

Procuring agencies should seek legal advice before publishing any information about sanctions.

## 10. Identifying an alleged breach of the Threshold

Procuring agencies must first ensure the Threshold applies to the contract under which the alleged breach is identified (refer to **Section 3.1** within this Procedure).

Procuring agencies may identify and refer alleged breaches of the Threshold using some of the sources identified in **Table 10** below.

**Table 10** – How to identify alleged breaches

How to identify alleged breaches	
<b>Ethical Supplier Threshold declaration</b>	<ul style="list-style-type: none"> <li>• Prior to contract award suppliers are required to complete a Threshold declaration to ensure they have not contravened any of the Threshold provisions listed.                             <ul style="list-style-type: none"> <li>- <u>Non-compliant Threshold declaration</u>: this will trigger the procuring agency to conduct initial enquiries to ensure the conduct falls within the scope of the Threshold.</li> <li>- <u>Refer to the QGP Compliance Branch for advice</u>: Once initial enquiries are finalised, refer the alleged breach for advice and potential investigation.                                     <ul style="list-style-type: none"> <li>○ Do not proceed to contract award until advice is received.</li> </ul> </li> </ul> </li> <li>• Refer to <b>Section 6.2.1</b> within this Procedure for more information on non-compliant Threshold declarations.</li> </ul>
<b>Standard contract management</b>	<ul style="list-style-type: none"> <li>• Project managers may identify earlier signs of breach with:                             <ul style="list-style-type: none"> <li>- <u>Contract management processes</u>:                                     <ul style="list-style-type: none"> <li>○ enabling procuring officers to establish performance standards and regularly monitor performance.</li> </ul> </li> <li>- <u>Regular project reporting</u>:                                     <ul style="list-style-type: none"> <li>○ reviewing the supplier’s performance against contracted commitments can help identify breaches.</li> <li>○ offers insights into supplier performance and adherence to contractual obligations.</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ detecting discrepancies or anomalies in performance reports may indicate potential breaches.</li> <li>○ performance report findings act as early warnings, prompting further investigation and corrective action as needed.</li> </ul>
<b>Outcome of QGP Compliance Branch Audit</b>	<ul style="list-style-type: none"> <li>• <u>Breaches are identified by outcomes of a QGP Compliance Branch audit.</u> <ul style="list-style-type: none"> <li>- The Buy Queensland Audit Unit (BQAU) audits all Best Practice Principle (BPP) projects and selects a required sample of <i>Queensland Government Building and Construction and Training Policy</i> applicable projects to audit per annum.</li> </ul> </li> <li>• These audits are proactive measures to ensure adherence to standards and regulations governing procurement processes.</li> </ul>
<b>Complaint</b>	<ul style="list-style-type: none"> <li>• <u>Stakeholders can refer complaints to PIU regarding potential breaches;</u> <ul style="list-style-type: none"> <li>- including suppliers, current/former employees, unions, government agencies or members of the public.</li> </ul> </li> <li>• Complaints can trigger investigation by PIU within the QGP Compliance Branch to assess validity and severity of alleged breaches. <ul style="list-style-type: none"> <li>- A complaint may be referred directly to the QGP Compliance Branch by forwarding it to <a href="mailto:QPPCompliance@epw.qld.gov.au">QPPCompliance@epw.qld.gov.au</a>, which can prompt an investigation.</li> </ul> </li> <li>• Complaints raised as an alleged breach of the Threshold that are vexatious in nature and do not provide sufficient detail of a breach having occurred, should be handled in a manner consistent with the agency's existing complaint management processes.</li> </ul>
<b>Regulator outcome</b>	<ul style="list-style-type: none"> <li>• <u>Regulatory bodies may conduct independent investigations</u> at an industry level to ensure compliance with legal and regulatory requirements governing procurement processes. <ul style="list-style-type: none"> <li>- Media articles reporting regulator outcomes can also prompt the QGP Compliance Branch to initiate an investigation.</li> </ul> </li> </ul>

## 11. Referring alleged breach to the QGP Compliance Branch

For 18 months from 1 October 2023, the QGP Compliance Branch is responsible for managing investigations into potential breach of the Threshold (i.e., alleged breach) including referring regulatory matters to regulators or law enforcement agencies, where necessary.

### 11.1 Collating information

Where a procuring agency has sufficient evidence indicating that the supplier is in breach, they must:

- record their allegation; and
- refer the matter to the QGP Compliance Branch within five (5) business days of identification, along with any supporting evidence obtained during the tender or contract enquiry.

The procuring agency should not proceed with any contract award until the QGP Compliance Branch has reviewed the matter.

For guidance on gathering and assessing information to refer to the QGP Compliance Branch, refer to the table at **Section 6.2.1** and **Appendix 4: Breach assessment checklist**.

These tools are not mandatory and procuring officers may use them as a guide to ensure the alleged breach is:

- in scope of the Threshold,
- refers to a specific category of breach, and
- to consider the likely severity of the breach.

## 11.2 Referring an alleged breach

The procuring agency should refer all relevant information and evidence available (see **Table 6.2.1 – Information to consider**) relating to the alleged breach of the Threshold to the QGP Compliance Branch via:

- email: [QPPCompliance@epw.qld.gov.au](mailto:QPPCompliance@epw.qld.gov.au) or,
- phone: 1300 10 50 30 (Option 1).

The QGP Compliance Branch, specifically PIU, can discuss the suspected breach and provide informal advice to procuring agencies on whether the allegation is in scope of the Threshold.

This enables the QGP Compliance Branch to then:

- review the matter and provide advice;
- record the outcome and provide a reference number for the procuring agency and the supplier to use for future procurement (ensuring the same matter is not re-persecuted);
- refer to the PIU for further investigation (if required); and  
update the Portal to record outcomes (where relevant).

The steps that procuring agencies need to undertake to fulfil their obligations under the Threshold conclude at **Section 11** of this procedure. Refer to **Appendix 5** for further information on the responsibilities of QGP Compliance Branch in investigating an alleged breach.

## Appendix 1: Definitions

Term	Description
<b>Breach</b>	A failure by the supplier to comply with one or more requirements of the Ethical Supplier Threshold as determined by a regulator or the decision maker.
<b>Business day</b>	A day that is not a Saturday, Sunday or a public holiday in Queensland.
<b>Compelling evidence</b>	<p>Compelling evidence of a non-compliance under the Mandate or breach of the Threshold having occurred (e.g., pay slips indicating underpayment of wages or superannuation, or ATO records, bank statements) regardless of whether the evidence has or has not been considered by any regulator or court, or whether or not there is any relevant regulator.</p> <ul style="list-style-type: none"> <li>– A non-compliance can be dealt with based on compelling evidence, even where the non-compliance standard is breach of a law that has not been established by a court or regulator (including as set out in the Threshold). The same applies in the case of breach of the Local Benefits Test or other contractual requirements where there is no regulator.</li> <li>– A decision regarding imposing a penalty under the Mandate can be made where compelling evidence exists for relevant non-compliance. Procedural fairness will still apply and suppliers will have a chance to challenge an allegation or rectify a non-compliance.</li> </ul>
<b>Complainant</b>	The person who has made a complaint regarding an alleged non-compliance under the Mandate.
<b>Date of issue</b>	<p>The date of issue means the day the Notice was provided to the supplier, where the method of issue results in immediate receipt (for example, in person, email).</p> <ul style="list-style-type: none"> <li>– Where same day delivery is not possible (i.e., post) the date of issue is five (5) business days after the Notice was posted.</li> </ul>
<b>Decision maker</b>	The head of the procuring agency or such suitably qualified and senior delegate, to make decisions regarding whether a non-compliance under the Ethical Supplier Mandate or a breach of the Ethical Supplier Threshold occurred from the dates the policies apply (following recommendation from the Tripartite Procurement Advisory Panel) and whether a penalty in the form of demerits and or a sanction should be applied.
<b>Declared by the Minister</b>	<p>Declared in writing by the Minister responsible for the category, in consultation with:</p> <ul style="list-style-type: none"> <li>– the Minister for Energy and Clean Economy Jobs, and</li> <li>– the Premier.</li> </ul>
<b>Deputy Director-General – Procurement</b>	The Deputy Director-General – Procurement (DDG – Procurement) of Queensland Government Procurement within the Department of Energy and Climate.

<p><b>Ethical Supplier Threshold</b></p>	<p>The Ethical Supplier Threshold described in the <i>Queensland Procurement Policy</i>, that is, whether a supplier has on or after 1 August 2019:</p> <ul style="list-style-type: none"> <li>(a) contravened a civil remedy provision of Chapter 2 or Chapter 3 of the <i>Fair Work Act 2009</i> (Cth), or committed an offence against the <i>Fair Work Act</i></li> <li>(b) contravened a civil remedy provision of Chapter 2, 3, 4, 5, or 7 of the <i>Industrial Relations Act 2016</i>, or committed an offence against the <i>Industrial Relations Act</i>, or failed to pay employment related levies, or other payments, established under Queensland legislation</li> <li>(c) failed to make superannuation contributions on behalf of employees in accordance with law</li> <li>(d) purported to treat employees as independent contractors, where they are not</li> <li>(e) required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors</li> <li>(f) engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees</li> <li>(g) entered into an arrangement for the provision of labour hire services with a person who is not licensed under the <i>Labour Hire Licensing Act 2017</i>, or a supplier who is an unlicensed supplier under the Act</li> <li>(h) paid employee wages below those provided for in an applicable modern award (including for people with disability, ‘suppliers’ must provide award-based wages (using the Supported Wage System where appropriate)).</li> </ul>
<p><b>Guidelines</b></p>	<p>A document detailing information and guidance that assists a user to fulfil a policy requirement or understand concepts about a related process.</p> <ul style="list-style-type: none"> <li>– Guides may include specific steps that should be followed to complete a given process in support of a policy requirement</li> </ul>
<p><b>Investigation</b></p>	<p>An investigation into alleged non-compliance under the Ethical Supplier Mandate and/or breach of the Ethical Supplier Threshold.</p> <ul style="list-style-type: none"> <li>– From 1 October 2023 for a period of 18 months, the QGP Compliance Branch is responsible for leading and managing all investigations and referring regulatory matters to regulators or law enforcement agencies, where necessary.</li> <li>– When the QGP Compliance Branch is conducting the investigation, it assumes the requisite authority, roles and function for the duration of the compliance process under the Mandate (e.g., issuing requests for information and show cause, and determining and referring alleged breaches to the Panel).</li> </ul>
<p><b>Low value procurement</b></p>	<p>Low value procurement is defined by an agency’s existing purchasing threshold, where this value is less than \$20,000 (per purchase or order).</p> <ul style="list-style-type: none"> <li>– Where an agency’s low value procurement threshold exceeds \$20,000, that agency’s definition of low value spend will be capped at \$20,000 for the purpose of the Mandate and the Threshold.</li> </ul>
<p><b>Non-compliance</b></p>	<p>A failure by the supplier to comply with a policy, legislative or contractual requirement as set out in <b>Section 4.1</b> ‘<i>Categories of non-compliance and</i></p>

	<p><i>applicable demerits</i>’ (within the <i>Ethical Supplier Mandate 2024</i>) or <b>Section 2.2</b> ‘<i>Types of non-compliance</i>’ (within the <i>Ethical Supplier Mandate 2019</i>) where the supplier knew or ought to have known the conduct was non-compliant as decided by the decision maker, on advice from the Panel. This may include, but is not limited to, where the decision maker considers that the supplier’s conduct was deliberate, negligent, or repeated.</p>
<b>Policy requirement</b>	<p>A requirement of:</p> <ul style="list-style-type: none"> <li>– the <i>Queensland Procurement Policy</i> (QPP)</li> <li>– the <i>Queensland Government Procurement Strategy</i></li> <li>– procurement-related policies and instruments as listed in Schedule 3 to the QPP</li> <li>– procurement-related guidance and codes approved by the DDG – Procurement Queensland Government Procurement or a contractual term, designed to effect a policy requirement, in a Queensland Government contract, a subcontract to a Queensland Government contract, or a contract in a supply chain supporting a Queensland Government contract or a requirement of a law or regulation specified in this Mandate.</li> </ul>
<b>Pre-qualified supplier</b>	<p>A pre-qualified supplier means a supplier registered with:</p> <ul style="list-style-type: none"> <li>– the Prequalification System of the Building Policy Framework</li> <li>– the National Prequalification System for Civil (Road and Bridge) Construction Contracts</li> <li>– arrangements administered by General Goods and Services, Department of Energy and Climate; or</li> <li>– QBuild as a prequalified supplier.</li> </ul>
<b>Procuring agency</b>	<p>An agency subject to the QPP, including a budget sector agency, a statutory body, special purpose vehicle or government owned corporation.</p> <ul style="list-style-type: none"> <li>– The ‘department sponsoring the project’ for the purposes of the <i>Building Policy Framework</i> is the ‘procuring agency’ for the purposes of this Mandate.</li> <li>– For the purposes of this Mandate, the procuring agency is the agency responsible for the contract during which the supplier’s non-compliance occurred</li> </ul>
<b>Queensland Government contract</b>	<p>A contract between any person and the Crown in the right of the State of Queensland or a related entity, including deeds for common-use supply arrangements and other arrangements as declared by the DDG – Procurement.</p> <ul style="list-style-type: none"> <li>– Also includes any contractual term in a contract that is designed to give effect to a policy requirement in a Queensland Government contract, a subcontract to a Queensland Government contract, or a contract in a supply chain supporting a Queensland Government contract.</li> </ul>



<p><b>Sanction</b></p>	<p>A sanction is a penalty that prevents the supplier from doing business with Queensland Government for a set period of time of up to 12 months. Sanctions will be determined by the decision maker on advice from the Panel.</p> <p>Sanctions can include:</p> <ul style="list-style-type: none"> <li>– suspending a supplier’s prequalification for a defined period</li> <li>– making a supplier ineligible for contract award for a defined period</li> <li>– not exercising contract extension options</li> <li>– suspending a supplier from any Queensland Government panel or contracting framework for a defined period and</li> <li>– a suspended sanctions penalty, pending successful implementation of any recommended corrective actions.</li> </ul>
<p><b>Supplier</b></p>	<p>A contractor or consultant or other party to a Queensland Government contract, other than the Crown and its related entities, or a subcontractor to a supplier.</p> <ul style="list-style-type: none"> <li>– The definition of ‘supplier’ includes but is not limited to the definition within the QPP.</li> <li>– The definition of ‘supplier’ includes subcontractors within the supply chain.</li> <li>– The principal supplier under contract to the procuring agency is responsible for conduct of suppliers within their supply chain.</li> <li>– Suppliers may be penalised for non-compliance by their subcontractors, except where the supplier has taken reasonable action to prevent non-compliance by their subcontractors, in addition to any penalties applied to the subcontractor.</li> </ul>
<p><b>Tripartite Procurement Advisory Panel (the Panel)</b></p>	<p>An expert panel of knowledgeable nominees, with equal representation from employers, unions and chaired by an independent government appointee having substantial experience in relevant fields.</p> <ul style="list-style-type: none"> <li>– Initial non-compliance is considered by three (3) standing members reflecting equal industry representation and the independent chair. Appeals will be considered by five (5) members of the Panel not involved in the original consideration, with the exception of the chair.</li> </ul> <p>The Panel may seek information from independent subject matter experts in relevant areas (e.g., WHS, industrial relations) as needed, to inform their recommendations on appropriate penalties for an alleged non-compliance.</p>

## Appendix 2: Example Threshold declaration

From 1 August 2019 Queensland Government contracts are required to include compliance with the Ethical Supplier Threshold. Most tenders will do so in the form of a declaration that asks the supplier to declare the following (note – this is an example only):

After 1 August 2019, has the Supplier:	(tick one)
a) contravened a civil remedy provision of Chapter 2 or Chapter 3 of the Fair Work Act 2009 (Cth), or committed an offence against the Fair Work Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b) contravened a civil remedy provision of Chapter 2, 3, 4, 5, or 7 of the Industrial Relations Act 2016, or committed an offence against the Industrial Relations Act, or failed to pay employment related levies, or other payments, established under Queensland legislation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c) failed to make superannuation contributions on behalf of employees in accordance with law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d) purported to treat employees as independent contractors, where they are not?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e) required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
f) engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g) entered into an arrangement for the provision of labour hire services with a person who is not licensed under the Labour Hire Licensing Act 2017 (Qld), or a supplier who is an unlicensed provider under the Labour Hire Licensing Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No
h) paid employees' wages below those provided for in an applicable modern award?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Where a previous 'yes' response to the above criteria has been submitted and considered compliant with the policy by a Queensland Government procuring agency, provide the corresponding reference number here:	*Reference number: _____
<p><b>Compliance information disclosure consent</b></p> <p>In making this declaration, the Supplier certifies that the responses in this form are complete, accurate, up to date and not misleading in any way. The Supplier agrees that the procuring agency or organisation may obtain information from the Supplier or about the Supplier to verify the above information.</p> <p>This information may be held by any governmental regulator, for example Work Health Safety Queensland, the Queensland Building and Construction Commission, the Office of Industrial Relations, the Fair Work Commission and the Australian Building and Construction Commission.</p> <p>The Supplier agrees that the evaluation panel and the procuring agency or organisation may take the information into account in assessing a tender or offer or awarding a Contract.</p>	

## Appendix 3: Example contract clauses incorporating the Threshold

**Note: agencies should seek their own legal advice before using these example clauses.**

There are a range of existing resources to assist procuring agencies, including contract templates.

The following categories have example contract templates available online that include clauses for the Threshold:

- [Building and Construction Maintenance \(BCM\)](#);
- [Transport Infrastructure Services \(TIS\)](#)
- [General Goods and Services \(GGS\)](#)
- [Information and Communication Technology \(ICT\)](#) and
- [Social Services](#).

**Note – the below example is based on the general goods and services category**

To be a conforming offer, the offer must satisfy all mandatory requirements, under clause 1.10. As compliance with the Threshold is made a mandatory criterion, an evaluation panel would have a discretion under clause 2.2 of the Invitation to Offer (ITO) conditions to accept an offer from a supplier who did not meet the Threshold, although compelling reasons would be required to accept a non-conforming offer that did not meet a mandatory criterion. The following amendments are required for this option:

**Amend clause 1.6 of the ITO as follows:**

The following criteria are mandatory:

- a) The supplier must complete a declaration declaring that it complies with the Ethical Supplier Threshold;
- b) *[insert other mandatory criteria as required]*

**Add a new paragraph (2) into schedule A (and re-number the following paragraphs) as follows:**

*[note: add this new paragraph at the beginning of the response schedules so that it is a simple matter to check if a supplier should be considered further]*

### 1 Ethical Supplier Threshold

It is a mandatory criterion that the supplier must complete a declaration declaring that it complies with the Ethical Supplier Threshold. Please provide the following details about the supplier:

After 1 August 2019, has the supplier:

- a. contravened a civil remedy provision of Chapter 2 or Chapter 3 of the *Fair Work Act 2009* (Cth), or committed an offence against the Fair Work Act?
- b. contravened a civil remedy provision of Chapter 2, 3, 4, 5, or 7 of the *Industrial Relations Act 2016*, or committed an offence against the Industrial Relations Act, or failed to pay employment related levies, or other payments, established under Queensland legislation?
- c. failed to make superannuation contributions on behalf of employees in accordance with law?
- d. purported to treat employees as independent contractors, where they are not?
- e. required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors?
- f. engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees?

- g. entered into an arrangement for the provision of labour hire services with a person who is not licensed under the *Labour Hire Licensing Act 2017*, or a supplier who is an unlicensed provider under the Act?
- h. paid employee wages below those provide for in an applicable modern award (including for people with disability, 'suppliers' must provide award-based wages (using the Supported Wage System where appropriate)?

**Add a new paragraph to clause 2.2 in the ITO Conditions, as follows, to enable the panel to be able to make investigations with regulators about a supplier's compliance:**

- a) obtain information about the supplier relevant to the evaluation criteria that may be held by any Government Department or Instrumentality and take the information into account in assessing the offer.

**The example definitions and clauses below are generic and provided as a starting point to incorporate obligations under the Threshold.**

**Add these new definitions into the Definitions and Interpretation document:**

***Ethical Supplier Threshold*** means the *Ethical Supplier Threshold* described in Clause 19 of the *Queensland Procurement Policy*.

***Government Department or Instrumentality*** means the QGP Compliance Branch within Queensland Government Procurement Division of the Department of Energy and Climate and any governmental regulator, including but not limited to Work Health Safety Queensland, the Queensland Building and Construction Commission, the Fair Work Commission and the Australian Taxation Office.

**Add this new clause to the contract about monitoring compliance information:**

*The Supplier is required to comply with the Ethical Supplier Threshold and the Customer may monitor the Supplier's compliance with the Ethical Supplier Threshold during the term of the Contract. The Supplier agrees that the Customer may obtain any relevant information from the Supplier or about the Supplier for this purpose. This includes obtaining information about the Supplier relevant to compliance with the Threshold that may be held by any Government Department or Instrumentality. And the Supplier agrees to provide the Customer all information as requested during an audit or investigation, including the information of any subcontractors.*

**Add this new clause to the contract about publication of information about sanctions**

*The Contractor acknowledges and agrees that the State may publish information about sanctions imposed on the Contractor under the Ethical Supplier Mandate for the breaches of the Ethical Supplier Threshold. If the Contractor is a natural person, the Principal collects personal information about the Contractor for the purposes of determining whether to impose demerits or sanctions on the Contractor's business under the Ethical Supplier Mandate. Personal information may be included in the Principal's referrals to the Panel for the making of a recommendation about non-compliance and penalty under the Ethical Supplier Mandate and to the Decision maker, for the purposes of making a decision about non-compliance and penalty.*

**Add this new clause to the contract about access to information:**

*The Contractor authorises the Principal to obtain information about the Contractor relevant to the Ethical Supplier Mandate and the Ethical Supplier Threshold that may be held by any Government Department or Instrumentality. The Contractor agrees to provide all information requested during an audit or investigation, including the information of any subcontractors.*

## Appendix 4: Breach assessment checklist

### *Is the breach in scope of the Threshold?*

This breach assessment checklist supports procuring agencies in determining whether non-compliant conduct by a supplier can be considered an alleged breach of the *Ethical Supplier Threshold* (the Threshold).

<b>Date completed:</b>	enter date
<b>Completed by:</b>	procuring officer name
<b>Supplier ABN/ACN:</b>	XXXX XXX XXX
<b>Supplier name:</b>	business/organization
<b>Contract reference:</b>	contract name/number

Use the information in this table to assess whether a non-compliance may be considered a breach of the Threshold.

Assessment item	Test
Did the breach occur on a Queensland Government contract?	<input type="checkbox"/> <b>Yes</b> <i>Essential</i> <input type="checkbox"/> <b>No</b>
Did the contract commence after the Threshold came into effect?  <b>dd / mm / yyyy</b> [date contract was signed]	<input type="checkbox"/> <b>Yes</b> <i>Refer to <b>Section 2</b> in the Guidelines: Ethical Supplier Threshold</i> <input type="checkbox"/> <b>No</b> <i>Other – n/a</i>
Does a variation apply to this contract?	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
Does the breach relate to a varied contract clause?	<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
Identify the contract clause the breach relates to:	<i>[insert clause]</i>

<p>Where the breach relates to legislation, state the relevant section and Act that may apply:</p>	<p><i>[insert Act and section details]</i></p>
<p>After 1 August 2019, has the supplier:</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <b>Contravened a civil remedy provision of Chapter 2 or Chapter 3 of the Fair Work Act 2009 (Cth), or committed an offence against the Fair Work Act.</b></li> <li><input type="checkbox"/> <b>Contravened a civil remedy provision of Chapter 2, 3, 4, 5, or 7 of the Industrial Relations Act 2016, or committed an offence against the Industrial Relations Act, or failed to pay employment related levies, or other payments, established under Queensland legislation.</b></li> <li><input type="checkbox"/> <b>Failed to make superannuation contributions on behalf of employees in accordance with law.</b></li> <li><input type="checkbox"/> <b>Purported to treat employees as independent contractors, where they are not.</b></li> <li><input type="checkbox"/> <b>Required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as employees.</b></li> <li><input type="checkbox"/> <b>Engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees.</b></li> <li><input type="checkbox"/> <b>Entered into an arrangement for the provision of labour hire services with a person who is not licensed under the Labour Hire Licensing Act 2017 (Qld), or a supplier who is an unlicensed provider under the Labour Hire Licensing Act.</b></li> <li><input type="checkbox"/> <b>Paid employees' wages below those provide for in an applicable modern award including for people with disability, 'suppliers' must provide award-based wages (using the Supported Wage System where appropriate).</b></li> </ul>
<p>Based on the information or evidence available, was the breach the result of an honest mistake or oversight?</p>	<p style="text-align: center;"> <input type="checkbox"/> <b>Yes</b> <span style="margin-left: 200px;"><input type="checkbox"/> <b>No</b></span> </p>

<p><b>If yes, has the breach has been corrected?</b></p> <p><i>If yes, provide explanation and evidence:</i></p>	<p><input type="checkbox"/> <b>Yes</b>                      <input type="checkbox"/> <b>No</b></p> <p><i>[Insert reasoning]</i></p>
<p>Is there information or evidence available to progress the matter under the Threshold?</p>	<p><input type="checkbox"/> <b>Yes</b>                      <input type="checkbox"/> <b>No</b></p>

**Does this non-compliance fall within the scope of a breach of the Threshold?**

**Yes**                       **No**

**If yes, forward the breach to the QGP Compliance Branch via [QPPCompliance@epw.qld.gov.au](mailto:QPPCompliance@epw.qld.gov.au).**

## Appendix 5: Investigating an alleged breach

### 1. Background

Executive Government approved an investigative solution to assist with the expansion of the Threshold for an initial 18-month period commencing from 1 October 2023.

As a result, the QGP Compliance Branch, specifically the PIU, is responsible for leading and managing all investigations into allegations of breaches of the Threshold and referring regulatory matters to regulators or law enforcement agencies, where necessary.

The PIU evaluates whether there is evidence to establish the alleged breach and will ensure the scale of the investigation is commensurate with the complexity and significance of the alleged breach.

When the QGP Compliance Branch is conducting the investigation, it assumes the requisite authority, roles and function for the duration of the compliance process under the Mandate (refer to **Appendix 1 – Definitions**).

The below process map highlights the QGP Compliance Branch investigation and Ethical Supplier Mandate processes.

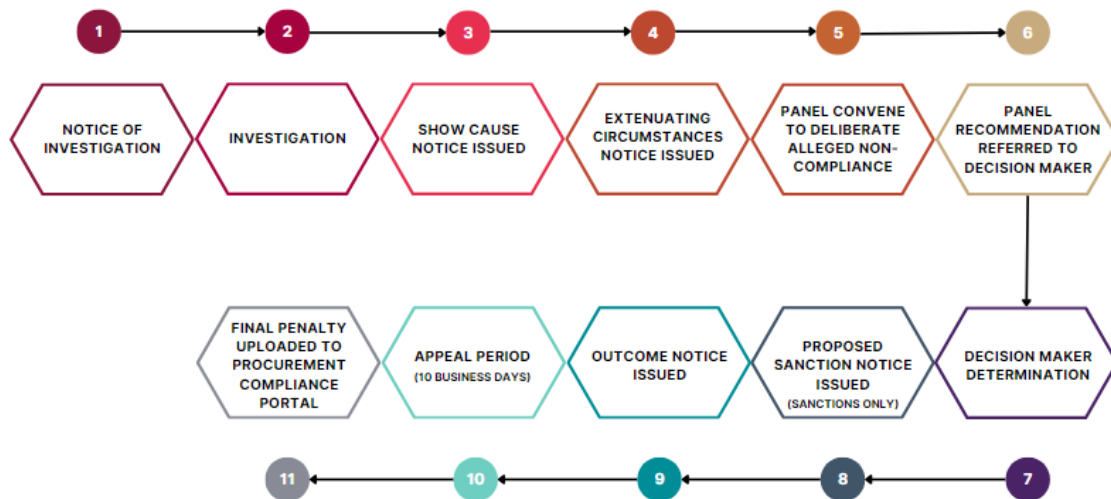


Diagram 1 - QGP Compliance Branch investigation process

### 2. Opportunities for procedural fairness

Suppliers will be provided procedural fairness opportunities at three stages throughout the investigation and decision process (four if a sanction is considered):

- Show Cause Notice
- Extenuating Circumstances Notice
- Proposed Sanction Notice (only issued when a sanction is proposed) and
- Appeal.

The supplier is encouraged to, and has the right to, respond to allegations of breach at each stage and provide reasonings for same.

#### 2.1 Show Cause Notice

Where the PIU considers there is sufficient evidence to establish a breach, it will provide the supplier with an opportunity to respond via a *Show Cause Notice* (SCN). The SCN is an opportunity for the



supplier to provide further information about the breach and any other details it would like the Panel to consider.

The PIU will consider the response to the SCN and progress the matter to the SCU for preparation of referral to the Panel where the breach is assessed. The supplier will be advised of the investigation outcome via an investigation outcome notice (issued via email where possible).

See **Section 3.7.1** of the *Guidelines: Ethical Supplier Threshold* for more information.

## 2.2 Extenuating Circumstances Notice

The SCU will issue the supplier with an *Extenuating Circumstances Notice* (ECN) (via email where possible).

The ECN provides the supplier with an opportunity to explain unforeseen or extraordinary circumstances that may have contributed to the breach. These circumstances generally involve unforeseen events beyond the supplier's control. However, the ECN does not provide the supplier with an opportunity for the supplier to dispute the breach or provide further evidence.

### 2.2.1 Referral to the Panel

After the procedural fairness process, the matter will be referred to the Panel for deliberation and recommendation.

In forming its recommendations to the decision maker, the Panel reviews all relevant facts of the investigation and circumstances surrounding the breach. The Panel has the discretion to recommend a penalty consistent with the type of breach. This may include demerits and/or a sanction.

Once a recommendation has been made, the matter is referred to the decision maker.

### 2.2.2 Decision maker

The decision maker for imposing penalties will be the head of the procuring agency or such suitably qualified and senior delegate; including delegation to the Director-General or Deputy Director-General within the Department of Energy and Climate.

The decision maker must formally issue the supplier an *Outcome Notice* (ON) whether or not penalties are issued.

## 2.3 Proposed Sanction Notice

If the decision maker makes a decision to sanction a supplier, the decision maker must issue the supplier with a *Proposed Sanction Notice* (PSN) prior to the sanction being applied.

The PSN formally informs the supplier about the exact terms of the potential sanction to be applied and provides the supplier with a chance to contest the proposed sanction. The PSN details the breach, outlines the proposed sanctions and its duration, and sets a ten-business-day window for the supplier to respond.

### 2.3.1 Outcome Notice

The decision maker must issue the supplier with an ON after a decision has been made. The ON should include information about the penalty issued, appeal options and the expiration date for the demerits and/or sanction.

For information regarding:

- processes and penalties for breaching the Threshold,
- penalties (demerits and/or sanctions), and
- publication of information about sanctions,

refer to **Section 4** of the *Guidelines: Ethical Supplier Threshold*.

## 2.4 Appeal

Suppliers can appeal the decision if they believe that:

- the process outlined in the Mandate or the *Guidelines: Ethical Supplier Threshold* has not been followed,
- the show cause and extenuating circumstances response, or specific supporting evidence were not considered in the original decision, or
- the decision was not aligned with the penalty guidelines.

The appeal process is a review of the process and outcome, not an opportunity to revisit the facts of the breach. If an appeal is received, a reconstituted Panel, comprising of five new Panel members is convened.

The decision maker must not be the same person as the original decision-maker. The decision maker responsible for the appeal decision is another head of the procuring agency or such suitably qualified and senior delegate, such as the Director-General or Deputy Director-General within the Department of Energy and Climate.

## 3. Penalty issued and uploaded on the Procurement Compliance Portal

Once a penalty decision is finalised and issued, the decision maker must notify the QGP Compliance Branch to upload the penalty onto the Portal.

If a supplier has been sanctioned, the Heads of Procurement Network (HoPN) must also be notified.

## Appendix 6 – Categories of non-compliance: reference table

To assist both procuring agencies and suppliers in the understanding and application of the *Ethical Supplier Mandate 2024* categories of non-compliance, the below table has been developed<sup>1</sup>. This reference table provides a break-down of the key areas related to the category and links users back to the source of the obligation<sup>2</sup> and includes information regarding category-specific penalties.

This reference table is intended as a general guide only for the benefit of government agencies and suppliers. It does not determine any actual demerit decision that will be made taking into the relevant circumstances of a particular supplier. It may not be relied upon by any other party.

Whole-of-government penalty framework				
1. Local Benefits				
Types of non-compliance	a) Commitment to employment of local workers	b) Other commitments		Related resources
<i>Examples of non-compliance areas</i>	✓ Local workers	✓ Local commitments	✓ Local business engagement	<a href="#">Queensland Procurement Policy (QPP) 2023</a> <a href="#">Ethical Supplier Mandate (the Mandate) 2024</a>
Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
✓ Compelling evidence	➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)	➤ Contract/ tender documentation (contractual obligations/ commitments) ➤ Contract Management Plan ➤ Site attendance register	➤ Tender documents ➤ Contract ➤ Contract Management Plan ➤ Deed of variation	<i>Not applicable</i>

<sup>1</sup> The Department of Energy and Climate disclaims all liability that may arise from the use of this document. This guide should not be used as a substitute for obtaining appropriate probity and legal advice as may be required. In preparing this document, reasonable efforts have been made to use accurate and current information. It should be noted that information may have changed since the publication of this document. Where errors or inaccuracies are brought to attention a reasonable effort will be made to correct them.

<sup>2</sup> Regulators as mentioned in the *Categories of non-compliance: Reference table* refer to the appropriate regulator or law enforcement agency.

<p>✘ Regulator outcome</p>	<p><i>Not applicable</i></p>	<ul style="list-style-type: none"> <li>➤ Personnel residential suburb and postcode</li> <li>➤ Project closure reports</li> <li>➤ Charter for Local Content outcome reports (Managing Contractors)</li> <li>➤ Audit reports</li> </ul>		
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2. Apprentices and trainees – (Queensland Government Building and Construction Training Policy and BPP commitments)			
Types of non-compliance	a) Commitment to engagement hours	b) Other commitments	Related resources
<p><i>Examples of non-compliance areas</i></p>	<ul style="list-style-type: none"> <li>✓ Employment of apprentices</li> <li>✓ Employment of trainees</li> </ul>	<ul style="list-style-type: none"> <li>✓ Staff training</li> </ul>	<p><a href="#">Queensland Government Building and Construction Training Policy (Training Policy)</a></p> <p><a href="#">Queensland Indigenous Procurement Policy (QIPP)</a></p> <p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
✓ Compelling evidence	➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)	<ul style="list-style-type: none"> <li>➤ Contract/ tender documentation (contractual obligations / commitments)</li> <li>➤ Contract Management Plan</li> <li>➤ TPAS records</li> <li>➤ Site attendance register</li> <li>➤ Evidence of training records and supporting documentation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> </ul>	<i>Not applicable</i>
✗ Regulator outcome	<i>Not applicable</i>	<ul style="list-style-type: none"> <li>➤ Project closure reports</li> <li>➤ Audit reports</li> </ul>		

### 3. Aboriginal peoples and Torres Strait Islander peoples' business and engagement

Types of non-compliance	a) Commitment to Indigenous business engagement	b) Indigenous business ownership status- at time of contract signing	Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Aboriginal peoples and Torres Strait Islander peoples' business engagement</li> <li>✓ Indigenous Economic Opportunities</li> </ul>	<ul style="list-style-type: none"> <li>✓ Indigenous business ownership</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Queensland Indigenous Procurement Policy (QIPP)</a></li> <li><a href="#">Queensland Procurement Policy (QPP) 2023</a></li> <li><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></li> </ul>

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
✓ Compelling evidence	➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)	<ul style="list-style-type: none"> <li>➤ Contract/ tender documentation (contractual obligations/ commitments)</li> <li>➤ Contract Management Plan</li> <li>➤ TPAS records</li> <li>➤ Evidence of implementation of IEOP</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> <li>➤ Indigenous Economic Opportunities Plan (IEOP)</li> </ul>	<i>Not applicable</i>
✗ Regulator outcome	<i>Not applicable</i>	<ul style="list-style-type: none"> <li>➤ Project closure reports</li> <li>➤ Audit reports</li> </ul>		

4. Workplace Health and Safety (WHS) – including BPP commitments (excluding ICT category) <sup>3</sup>		
Types of non-compliance	a) Commitment to standards	Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Workplace health and safety</li> <li>✓ Electrical safety</li> </ul>	<p><a href="#">Work Health and Safety Act 2011 (Qld)</a></p> <p><a href="#">Electrical Safety Act 2002 (Qld)</a></p> <p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>

<sup>3</sup> To ensure investigations cover projects across all procuring categories, Category Councils will annually identify what projects would be best suited to a BPP declaration using the current BPP policy process (except ICT which will continue to be excluded). In making their recommendations to the relevant Ministers, Category Councils will consider factors such as financial commitment, significance to the community and consequences of non-compliance. The Ministerial declaration will allow the BPP projects to be scheduled for audit by the Queensland Government Procurement (QGP) Compliance Branch.

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
✘ Compelling evidence	<i>Not applicable</i>	<ul style="list-style-type: none"> <li>➤ Workplace health and safety compliance history (e.g., Improvement Notices, Prohibition Notices, Infringement Notices, Stop Work Order, Court orders, Industrial Manslaughter Conviction, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ <i>Work Health and Safety Act 2011 (Cth)</i></li> <li>➤ <i>Electrical Safety Act 2002 (Qld)</i></li> </ul>	WorkSafe Ph: 1300 362 128
✔ Regulator outcome	<ul style="list-style-type: none"> <li>➤ A non-compliance in this category will require a regulator outcome. Investigating agencies may obtain further evidence to assist the Panel in its consideration</li> </ul>	<ul style="list-style-type: none"> <li>➤ Corrective action reports</li> <li>➤ Evidence of workplace health and safety records and supporting documentation (e.g., Safety Management Plan, Safe work method statement (SWMS), incident reports, Health and safety representative (HSR) nomination, appointment, and training, etc.)</li> <li>➤ Site attendance register</li> <li>➤ Toolbox talks and meeting minutes</li> <li>➤ Audit reports</li> </ul>		

5. Industrial relations (IR) – including BPP commitments			
Types of non-compliance	a) Commitment to Best Practice Principles (BPP)	b) Commitment to standards	Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Superannuation</li> <li>✓ Wages</li> <li>✓ Modern awards</li> <li>✓ Enterprise agreements</li> <li>✓ Enforceable undertakings</li> <li>✓ Sham contracting</li> </ul>	<ul style="list-style-type: none"> <li>✓ Industrial relations</li> <li>✓ Industrial relations management plans (IRMP)</li> <li>✓ Employee entitlements</li> <li>✓ Superannuation</li> <li>✓ Wages</li> <li>✓ Modern awards</li> <li>✓ Enterprise agreements</li> <li>✓ Enforceable undertakings</li> <li>✓ Sham contracting</li> </ul>	<p><a href="#">Fair Work Act 2009 (Cth)</a></p> <p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p> <p><a href="#">Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 (Qld)</a></p>
Applicable evidence types	Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> </ul> <p style="text-align: center;"><b><u>and/or</u></b></p> <ul style="list-style-type: none"> <li>✓ Regulator outcome</li> </ul>	<ul style="list-style-type: none"> <li>➤ Compelling evidence and/or a regulator decision may be considered where the non-compliance relates to these non-compliance areas:                             <ul style="list-style-type: none"> <li>- Underpayment of wages</li> <li>- Underpayment of superannuation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Fair Work Ombudsman (FWO) compliance history (e.g., Contravention Letter, Letter of Caution, Infringement Notice, Compliance Notice, Court order, FWO Notice etc.)</li> <li>➤ Industrial instrument (e.g., enterprise agreement, modern award, etc.)</li> <li>➤ Employment contracts / engagement letters</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ <i>Fair Work Act 2009 (Cth)</i></li> </ul> <p>Fair Work Ombudsman Ph: 13 13 94</p> <p>Australian Tax Office (ATO) Ph: 13 10 20</p> <p>Queensland Police Ph: 131 444</p>



	<ul style="list-style-type: none"> <li>- Certain instances of sham contracting</li> </ul>	<ul style="list-style-type: none"> <li>➤ Individual Flexibility Arrangements</li> <li>➤ Time and wage records (e.g., pay slips, timesheets etc.)</li> </ul>		
✓ Regulator outcome	<ul style="list-style-type: none"> <li>➤ For all other matters falling under Category 5, a regulator outcome is required</li> </ul>	<ul style="list-style-type: none"> <li>➤ Bank statements</li> <li>➤ Superannuation information and supporting records</li> <li>➤ Industrial Relations Management Plan</li> <li>➤ Site personnel register</li> <li>➤ Site personnel register summary report</li> <li>➤ Site personnel classification/ engagement register</li> <li>➤ Induction records</li> <li>➤ Audit reports</li> <li>➤ Contract/ tender documentation (contractual obligations for industrial relations)</li> </ul>		
<b>6. Security of payment</b>				
<b>Types of non-compliance</b>	<b>a) Adjudication standards</b>	<b>b) Breaches of the Building Industry Fairness (BIF) Act</b>	<b>Related resources</b>	
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Supply chain payments</li> <li>✓ Adjudication</li> <li>✓ Payment disputes</li> <li>✓ Judgement debts</li> </ul>	<ul style="list-style-type: none"> <li>✓ Supply chain payments</li> <li>✓ Payment disputes</li> <li>✓ QBCC notices</li> <li>✓ Trade licenses</li> </ul>	<p><a href="#">The Building Industry Fairness (BIF) Act 2017 (Qld)</a></p> <p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>	

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
✘ Compelling evidence	<i>Not applicable</i>	<ul style="list-style-type: none"> <li>➤ Contravention Letter</li> <li>➤ Letter of Caution</li> <li>➤ Infringement Notice</li> <li>➤ Compliance Notice</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ <i>Building Industry Fairness (BIF) Act 2017 (Qld)</i></li> </ul>	Queensland Building and Construction Commission Ph: 139 333
✔ Regulator outcome	<ul style="list-style-type: none"> <li>➤ A breach in this category will require a regulator outcome. Investigating agencies may obtain further evidence to assist the Panel in its consideration</li> </ul>			

7. Payment standards				
a) Types of non-compliance	b) Payments not covered by the BIF Act			Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Supply chain payments</li> </ul>			<a href="#">Queensland Procurement Policy (QPP) 2023</a>  <a href="#">Ethical Supplier Mandate (the Mandate) 2024</a>
Applicable evidence types	Applicable evidence types	Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> <li><b><u>and/or</u></b></li> <li>➤ Regulator outcome</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope), and/or</li> <li>➤ A regulator outcome may be used to escalate a breach in this category, however it is not essential</li> <li>➤ Where a regulator outcome is relied on, investigating agencies may obtain further evidence to assist the Panel in its consideration</li> </ul>	<ul style="list-style-type: none"> <li>➤ Payment agreements/ terms</li> <li>➤ Supplier invoices</li> <li>➤ Bank statements</li> <li>➤ Adjudication records</li> <li>➤ Court order</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> </ul>	Queensland Building and Construction Commission  Ph: 139 333

8. [other] Contractual and policy				
Types of non-compliance		a) Other commitments (including not engaging sanctioned suppliers when doing business with government)		Related resources
<i>Examples of non-compliance areas</i>		<ul style="list-style-type: none"> <li>✓ Social commitments</li> <li>✓ Environmental commitments</li> <li>✓ Prioritising 'Buy Queensland first'</li> </ul>	<ul style="list-style-type: none"> <li>✓ Subcontractor non-compliances</li> <li>✓ Engagement of a sanctioned subcontractor</li> </ul>	<p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>
Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Contract/ tender documentation (contractual obligations/ commitments)</li> <li>➤ Contract Management Plan</li> <li>➤ Project closure reports</li> <li>➤ Audit reports</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> <li>➤ Government policy</li> <li>➤ Legislation</li> </ul>	<i>Not applicable</i>
<ul style="list-style-type: none"> <li>✗ Regulator outcome</li> </ul>	<i>Not applicable</i>			

9. Communication and Co-ordination			
Types of non-compliance	a) Co-operation with requests		Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Non-compliance with procuring agency requests</li> <li>✓ Uncooperative with QGP Compliance Branch requests</li> </ul>		<a href="#">Queensland Procurement Policy (QPP) 2023</a> <a href="#">Ethical Supplier Mandate (the Mandate) 2024</a>
Applicable evidence types	Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Warning notices</li> </ul>	<p><i>Not applicable</i></p>
<ul style="list-style-type: none"> <li>✗ Regulator outcome</li> </ul>	<p><i>Not applicable</i></p>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> </ul>	

Category-specific penalty framework			
Building Construction and Maintenance & Transport Infrastructure Services			
10. Apprentices and Trainees – Queensland Government Building and Construction Training Policy and BPP Commitments			
Types of non-compliance	a) Commitment to engagement hours	b) Other commitments	Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Employment of apprentices</li> <li>✓ Employment of trainees</li> </ul>	<ul style="list-style-type: none"> <li>✓ Staff training</li> </ul>	<p><a href="#">Queensland Government Building and Construction Training Policy (Training Policy)</a></p> <p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>
Applicable evidence types	Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Contract/ tender documentation (contractual obligations/ commitments)</li> <li>➤ Contract Management Plan</li> <li>➤ TPAS records</li> <li>➤ Site attendance register</li> <li>➤ Evidence of training records and supporting documentation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> </ul> <p><i>Not applicable</i></p>

<p>✘ Regulator outcome</p>	<p><i>Not applicable</i></p>	<ul style="list-style-type: none"> <li>➤ Project closure reports</li> <li>➤ Audit reports</li> </ul>		
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<p><b>11. Security of payment</b></p>				
<p><b>Types of non-compliance</b></p>	<p><b>Adjudication standards</b></p>			<p><b>Related resources</b></p>
<p><i>Examples of non-compliance areas</i></p>	<ul style="list-style-type: none"> <li>✓ Supply chain payments</li> <li>✓ Adjudication</li> <li>✓ Payment disputes</li> <li>✓ Judgement debts</li> </ul>			<p><a href="#">The Building Industry Fairness (BIF) Act 2017 (Qld)</a></p> <p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>
<p><b>Applicable evidence types</b></p>		<p><b>Applicable evidence types</b></p>	<p><b>Applicable evidence types</b></p>	<p><b>Applicable evidence types</b></p>
<p>✓ <i>Not applicable</i></p>	<p><i>Not applicable</i></p>	<p><i>Not applicable</i></p>	<p><i>Not applicable</i></p>	<p>Queensland Building and Construction Commission</p> <p>Ph: 139 333</p>
<p>✘ Regulator outcome</p>	<p><i>Not applicable</i></p>			

12. Aboriginal peoples and Torres Strait Islander peoples' business and engagement				
Types of non-compliance	a) Commitment to Indigenous business engagement	b) Indigenous business ownership status- at time of contract signing	Related resources	
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Aboriginal peoples and Torres Strait Islander peoples' business engagement</li> <li>✓ Indigenous Economic Opportunities</li> </ul>	<ul style="list-style-type: none"> <li>✓ Indigenous business ownership</li> </ul>	<a href="#">Queensland Indigenous Procurement Policy (QIPP)</a> <a href="#">Queensland Procurement Policy (QPP) 2023</a> <a href="#">Ethical Supplier Mandate (the Mandate) 2024</a>	
Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Contract/ tender documentation (contractual obligations/ commitments)</li> <li>➤ Evidence of implementation of IEOP</li> <li>➤ Project closure reports</li> <li>➤ Audit reports</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> <li>➤ Deed of variation</li> <li>➤ Indigenous Economic Opportunities Plan (IEOP)</li> </ul>	<i>Not applicable</i>
<ul style="list-style-type: none"> <li>✗ Regulator outcome</li> </ul>	<i>Not applicable</i>			



**GGs, Medical, ICT & Social Services**

**13. Industry training**

Types of non-compliance		Commitment to building industry capability and capacity ( <i>Including a commitment to regional and rural development</i> )			Related resources	
<i>Examples of non-compliance areas</i>		<ul style="list-style-type: none"> <li>✓ Employee training</li> <li>✓ Regional and rural development</li> </ul>			<a href="#">Queensland Procurement Policy (QPP) 2023</a> <a href="#">Ethical Supplier Mandate (the Mandate) 2024</a>	
Applicable evidence types		Example evidence	Source of commitment - examples		Regulator contact details	
✓ Compelling evidence		<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence of training records and supporting documentation</li> <li>➤ Audit reports</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Deed of variation</li> </ul>		<i>Not applicable</i>
✗ Regulator outcome		<i>Not applicable</i>				

## ICT

## 14. Online and digital resources

Types of non-compliance	Commitment to online standards, policies and legislation	Related resources
<p><i>Examples of non-compliance areas</i></p>	<p>✓ Online and digital resources (websites, databases etc.)</p>	<p><a href="#"><u>Disability Discrimination Act 1992 (Cth)</u></a>  <a href="#"><u>Information Privacy Act 2009</u></a>  <a href="#"><u>Public Records Act 2002</u></a>  <a href="#"><u>Right to Information Act 2009</u></a>  <a href="#"><u>Information security policy (IS18:2018)</u></a>  <a href="#"><u>Digital services policy</u></a>  <a href="#"><u>Digital service standard</u></a>  <a href="#"><u>Web Content Accessibility Guidelines 2.1</u></a>  <a href="#"><u>Consistent user experience standard</u></a>  <a href="#"><u>Records governance policy</u></a>  <a href="#"><u>Information access and use policy (IS33)</u></a>  <a href="#"><u>Metadata management principles</u></a>  <a href="#"><u>Domain names policy</u></a></p>

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> <li><b>and/or</b></li> <li>✓ Regulator outcome</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope), and/or</li> <li>➤ A regulator outcome may be used to escalate a breach in this category, however it is not essential</li> </ul>	<ul style="list-style-type: none"> <li>➤ Websites</li> <li>➤ Databases</li> <li>➤ Online resources</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Deed of variation</li> </ul>	<i>Not applicable</i>
<b>15. Engagement of Small to Medium Enterprises (SMEs)</b>				
Types of non-compliance	Commitment to engagement of small to medium enterprises (SMEs)		Related resources	
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Active engagement of SMEs</li> <li>✓ Market assessment to identify appropriate SMEs by obtaining offers from at least one Queensland SME for new procurement opportunities, where practical.</li> <li>✓ Allocation of 10% of the 100% total evaluation criteria for the purpose of weighting Queensland SMEs vs non-Queensland SMEs.</li> </ul>		<ul style="list-style-type: none"> <li><a href="#">ICT SME participation scheme policy</a></li> <li><a href="#">ICT SME participation scheme standard</a></li> <li><a href="#">Guidelines for working with SMEs</a></li> <li><a href="#">Small and medium enterprise procurement target</a></li> <li><a href="#">Queensland Procurement Policy (QPP) 2023</a></li> </ul>	

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
✓ Compelling evidence	➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)	<ul style="list-style-type: none"> <li>➤ Evidence of implementation of ICT SME participation scheme policy</li> <li>➤ Contract (contractual obligations/commitments)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> </ul>	<i>Not applicable</i>
✗ Regulator outcome	<i>Not applicable</i>	<ul style="list-style-type: none"> <li>➤ Tender documentation/ market assessments</li> <li>➤ Audit reports</li> </ul>	<ul style="list-style-type: none"> <li>➤ Deed of variation</li> </ul>	

Social Services			
16. Compliance with licensing			
Types of non-compliance	Commitment to engaging suppliers with appropriate qualification/licenses	Compliance with quality standards for human services including Human Services Quality Framework (HSQF)?	Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Qualifications/licenses (Blue cards)</li> <li>✓ Refusal of license applications</li> </ul>	<ul style="list-style-type: none"> <li>✓ Quality standards for human services</li> <li>✓ Child protection placement services</li> <li>✓ Disability services</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Child Protection Act 1999 (Qld)</a></li> <li><a href="#">Working with children (Risk Management and Screening) Act 2000 (Qld)</a></li> <li><a href="#">Human Services Quality Framework (HSQF)</a></li> </ul>

Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> <li><b>and/or</b></li> <li>✓ Regulator outcome</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope), and/or</li> <li>➤ A regulator outcome may be used to escalate a breach in this category, however it is not essential</li> </ul>	<ul style="list-style-type: none"> <li>➤ Expired licenses</li> <li>➤ Blue card services online validation tool</li> <li>➤ Working with Children Check (WWCC)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Resumes and interview records</li> </ul>	<p>Queensland Family &amp; Child Commission Ph: (07) 3900 6000</p> <p>Blue Card Services Ph: 1800 113 611 or (07) 3211 6999</p>
<b>17. Compliance with funding agreements</b>				
Types of non-compliance	<b>Commitment to contractual funding agreement, including misuse or unacquitted funds.</b>			Related resources
<i>Examples of non-compliance areas</i>	<ul style="list-style-type: none"> <li>✓ Approved funding</li> <li>✓ Misuse or unacquitted funds</li> </ul>			<p><a href="#">Queensland Procurement Policy (QPP) 2023</a></p> <p><a href="#">Ethical Supplier Mandate (the Mandate) 2024</a></p>
Applicable evidence types		Example evidence	Source of commitment - examples	Regulator contact details
<ul style="list-style-type: none"> <li>✓ Compelling evidence</li> </ul>	<ul style="list-style-type: none"> <li>➤ Evidence obtained through investigation, where a regulator outcome is not in consideration (or scope)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Funding agreement</li> <li>➤ Contract/ tender documentation (contractual)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tender documents</li> <li>➤ Contract</li> <li>➤ Contract Management Plan</li> </ul>	<p><i>Not applicable</i></p>

<p>✘ Regulator outcome</p>	<p><i>Not applicable</i></p>	<p>obligations/ commitments)</p> <ul style="list-style-type: none"> <li>➤ Evidence of misused or unacquitted funds</li> <li>➤ Audit reports</li> </ul>		
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