

Guidelines: Ethical Supplier Threshold 2021

Queensland Government Procurement

SUPERSEDED



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Government

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Queensland Government Procurement within the Department of Energy and Public Works is committed to continuous improvement. If you have any suggestions about how we can improve this guide, or if you have any questions, contact us at ethicalsupply@epw.qld.gov.au

Disclaimer

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

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Administration

This version of the Guidelines replaces the Guidelines: Ethical Supplier Threshold 2019 and takes effect from 1 September 2021.

1 Introduction

The *Ethical Supplier Mandate 2021* (the Mandate) and the Ethical Supplier Threshold (the Threshold) are 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.

This guidance is provided to assist Queensland Government buyers and suppliers in applying the Threshold as set out in **Clause 2.3** of the *Queensland Procurement Policy* (QPP).

The Threshold is related to the Ethical Supplier Mandate (the Mandate) 2021 – they are complementary policies under the *Buy Queensland* approach, as set out in the QPP. The Mandate sets out the system for managing suppliers that breach the supplier requirements for doing business with Queensland Government set out in the Threshold.

This document should be read in conjunction with:

- the *Queensland Procurement Policy* (QPP)
- *Ethical Supplier Mandate 2021*
- *Guidelines: Ethical Supplier Mandate*.

These documents are available online at:

www.hpw.qld.gov.au/about/strategy/buy-qld/about/ethical-suppliers

2 Application of the Threshold

The Threshold, as set out in **Clause 2.3** 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 2.3 of the QPP states that: “The Queensland Government expects suppliers to comply with the Threshold. This means that a supplier has 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.

The Threshold is a mechanism for government to assess supplier behaviour; not to determine guilt in terms of legislative compliance. Consequently, compelling evidence (see **Section 3.7.1**) can be used to assess the behaviour of a supplier, in some cases where the matter has not been referred to a regulator.

Application of the policy provisions outlined in the *Ethical Supplier Mandate 2021, Guidelines: Ethical Supplier Mandate* and the *Guidelines: Ethical Supplier Threshold* apply as of the date of implementation.

This means that changes to process as outlined in these documents can be applied to contracts entered on or after 1 August 2019 (e.g. compelling evidence). New penalties as outlined (e.g. aggravated breaches and new categories of non-compliance) can only be applied to contracts entered on or after the date this policy comes into effect on 1 September 2021.

For contracts entered into before this date, refer to the types of non-compliance as outlined in the *Ethical Supplier Mandate 2019*.

2.1 Procuring agencies

Agencies will ensure tendering documents and contracts address the Threshold requirements.

The Threshold applies to all suppliers engaged by any procuring agency governed by the QPP, and their subcontractors. It applies to any related misconduct of an entity or business who seeks to be a supplier to government, where the misconduct occurred after 1 August 2019.

It is the responsibility of the procuring agency to manage investigations into potential non-compliance under the Threshold (i.e. alleged breach) and to refer regulatory matters to regulators or law enforcement agencies, where necessary. In some instances, the Queensland Government Procurement (QGP) Compliance Branch may offer assistance to agencies undertaking investigation into potential non-compliance.

2.2 Suppliers and subcontractors

Breaches of a requirement/s under the Threshold by suppliers are penalised under the Mandate. The definitions set out in the Mandate apply to the Threshold.

The Mandate's definition of 'supplier' includes subcontractors within the supply chain (see **Appendix 1**). This means that subcontractors may be subject to a penalty, and suppliers may be penalised for breaches by their subcontractors; except where the supplier has taken reasonable action to prevent the breach by their subcontractors.

As outlined in the Mandate, suppliers are responsible for ensuring that the conduct of subcontractors on government projects is compliant with the Mandate and the Threshold requirements.

Principal contractors must use their best endeavours not to engage suppliers that have been sanctioned under the Mandate or Threshold to do business with government. Principal contractors who are found to have knowingly engaged sanctioned suppliers may be found in breach of the Mandate and subject to penalty.

Examples of reasonable actions by the principal contractor to ensure this may include:

- conducting due diligence to ensure the subcontractor is compliant with the Mandate and Threshold before commencing the contract;
- ensuring contracts with subcontractors specify a requirement for compliance with the Mandate and Threshold and;
 - provide principal contractors with the ability to terminate the contract where a breach occurs; or
 - require the subcontractor to correct errors/make reparation payments.
- requiring the subcontractor to provide information or any relevant documents to demonstrate compliance to the principal or the QGP Compliance Branch as requested;
- taking appropriate action if the principal becomes aware the subcontractor has breached the Threshold or Mandate during a contract; including advising the procuring agency.

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- responding to a *Show Cause Notice* and/or *Extenuating Circumstances Notice* (or other request for information) that may be issued by the procuring agency or QGP Compliance Branch if the subcontractor has breached the Mandate or Threshold.

Penalties can only be applied to a supplier if the contract during which the breach occurred was executed after the relevant Mandate commencement date. Commencement dates for the Mandate are based on the relevant procurement category.

Refer to **Section 2.2** of the *Ethical Supplier Mandate 2021* for further information on commencement dates.

3 During the procurement cycle

3.1 Commencing the tender process

Queensland Government expects suppliers tendering for procurement to be compliant with the Threshold. A supplier must complete a declaration outlining whether they comply with the requirements of the Threshold to be considered further.

Procuring agencies must ensure that invitation to tender (e.g. ITO) documents include a Threshold declaration, completion of which is mandatory if the tender is to be considered further.

Tender documents must include:

- a supplier declaration of compliance or non-compliance with the Threshold criteria
- confirmation the supplier will cooperate with the following, including providing any requested documents related to compliance with the Threshold to:
 - the QGP Compliance Branch
 - procuring agency, and
 - any relevant regulatory bodies for compliance and investigative purposes
- information sharing mechanisms enabling evaluation panels to contact regulatory bodies as required to verify compliance information about a supplier including but not limited to:
 - Work Health Safety Queensland
 - Queensland Building and Construction Commission
 - Fair Work Commission
 - Australian Taxation Office, and
 - the Australian Building and Construction Commission.

3.2 Ethical Supplier Threshold declaration

Suppliers are required to declare in their tender response whether they comply with each aspect of the Threshold by completing an Ethical Supplier 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.

3.3 Considering a declaration of non-compliance in a tender

If a supplier answers 'yes' to any of the Threshold criteria (to declare that 'yes' they have been **non-compliant** with an element of the Threshold); 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 (e.g. Invitation to Offer (ITO) Conditions). Where an agency's standard practice does not include the consideration of non-conforming tender submissions, an alternative offer process may be used if permitted under the tender conditions.

The procuring agency should first confirm with the supplier if their 'yes' response (to declare non-compliance) was correct, as some suppliers may assess this incorrectly.

In determining how to respond to the declaration of non-compliance with the Threshold, the procuring agency should make enquiries with the supplier about the circumstances of the non-compliance.

This includes enquiring:

- when the non-compliance occurred (i.e. after the date of Threshold implementation)
- what the non-compliance was and how it occurred
- whether it has since been rectified and
- any regulator involvement or decision.

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**).

3.3.1 Rectification by the supplier

Where there is evidence of corrective action as well as systems improvements that will ensure the non-compliance will not occur again, the procuring agency may decide to progress with the offer if the tender conditions allow. Evidence of acknowledgement, rectification and systems improvement by the supplier must be provided.

The procuring agency may refer the decision about how to respond to the non-compliance issue and whether to exclude or continue with the offer to the relevant Chief Procurement Officer (or equivalent) within the agency. The Chief Procurement Officer may provide advice to the evaluation panel to consider during the assessment of the tender regarding the non-compliance.

3.3.2 Inclusion on the non-compliance register

The procuring agency (or relevant nominated officer) must advise the QGP Compliance Branch of the supplier's declaration of non-compliance with the Threshold criteria, for record-keeping purposes.

Where non-compliance is progressed through the Tripartite Procurement Advisory Panel (the Panel) and penalised by the decision maker, the non-compliance will be recorded on a centralised register available online for government agencies <https://www.forgov.qld.gov.au/complete-supplier-check> (see **Section 4.3**).

For further information on the Tripartite Procurement Advisory Panel, and the decision maker refer to **Sections 5** and **7**.

3.4 Before contracting with a supplier

Government buyers are required to complete a supplier check prior to procurement, in order to ensure suppliers are not suspended from doing business with the Queensland Government, unless engaging a prequalified supplier, or completing a low-value threshold procurement (see **Appendix 1 – Definitions**).

A pre-qualified supplier (see **Appendix 1 – Definitions**) means a supplier registered with:

- The Prequalification System of the *Capital Works Management Framework*
- The National Prequalification System for Civil (Road and Bridge) Construction Contracts
- Arrangements administered by General Goods and Services, Department of Energy and Public Works and
- QBuild as a prequalified supplier.

Government buyers can complete an online check here: <https://www.forgov.qld.gov.au/complete-supplier-check>. The online search will check the register of suppliers found to be non-compliant with the Threshold that is maintained by the QGP Compliance Branch.

The evaluation panel may contact the QGP Compliance Branch, or the relevant regulator, for information regarding a supplier's previous compliance history with the Threshold where authority has been given by the supplier (e.g. via the Threshold declaration form – see **Appendix 3**).

If these enquiries reveal that the supplier does not comply with the Threshold, then the offer may be non-conforming and will be treated by the evaluation panel in accordance with the tender conditions.

3.5 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.

Contracts should include the right for procuring agencies to give a *Show Cause Notice* where they reasonably suspect that a supplier is not complying with the Threshold and terminate the contract where reasonable cause is not shown to the agency's satisfaction. Subject to the contract requirements, the procuring agency will consider the supplier's response, including any extenuating circumstances, when deciding whether to terminate the contract for failure to comply with the Threshold.

If a supplier was non-compliant with the Threshold when tendering but permitted to tender as set out in **Section 3.3** above, then the standard clauses may need adjustment to allow for the past non-compliance with the Threshold.

Contracts should include a clause providing supplier consent to information collection and use by the procuring agency during the contract including for the purpose of monitoring compliance with the Threshold (see **Appendix 2 – Example Clauses**).

The contract should require a supplier to:

- declare the supplier's compliance with the Threshold requirements;
- provide information as requested by the procuring agency or QGP Compliance Branch relating to compliance with the Threshold;
- give permission to obtain relevant compliance information from any relevant regulators and/or law enforcement agencies; and
- require their subcontractors to meet these same requirements.

3.5.1 Contract variations

For tenders and contracts entered into after 1 August 2019, the Ethical Supplier Threshold must be incorporated. For contracts signed prior to 1 August 2019, but varied after this date, agencies should apply best endeavours to incorporate the Threshold.

The policy intent is that the Threshold applies to the conduct of any supplier engaged after 1 August 2019; however, a variation is not a new contract, it is a variation of an existing contract that must be agreed to by both parties.

There may be occasions, for organisational reasons, that a procuring agency may be unable to do so. Discretion remains with procuring agencies to proceed with documented and defensible procurement.

3.6 What constitutes a breach of the Threshold

A supplier is considered in breach of the Threshold in circumstances where the supplier has knowingly, or ought to have known, that the conduct is a breach of the requirements listed in the Threshold (see **Appendix 4 - Examples of non-compliance under the Threshold**).

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

3.7 How a breach may be confirmed

Procuring agencies are responsible for managing alleged breaches of a Queensland Government contract. This includes during a current contract or after an arrangement has concluded.

The procuring agency must first determine whether the Threshold applies (e.g. both the procurement commenced, and the alleged breach occurred, after 1 August 2019).

The procuring agency should conduct its own investigation where they reasonably suspect that a supplier is not complying with the Threshold.

The procuring agency should also undertake its usual contract management processes for a suspected breach of contract.

If the procuring agency identifies the alleged breach falls under the Threshold, they are required to refer the matter to the appropriate regulator or law enforcement agency to investigate.

In addition, the procuring agency must also refer the matter to the Tripartite Procurement Advisory Panel for consideration of penalty under the Mandate where it has compelling evidence which indicates that certain types of non-compliance did occur – refer to **Section 3.7.1** below, and **Sections 4.1 and 5.4** of the *Guidelines: Ethical Supplier Mandate*.

3.7.1 Compelling evidence

Where the procuring agency has compelling evidence (see **Appendix 1** – Definitions) indicating that the non-compliance occurred (including regarding underpayment of wages and superannuation or some instances of sham contracting), in addition to referring the matter to any relevant regulator or a law enforcement agency (e.g. for investigation under wage theft criminal offences¹ or to the Fair Work Ombudsman and the Australian Building Construction Commission), the matter will be referred under the Mandate for a penalty to be considered.

The agency will refer the matter to the Tripartite Procurement Advisory Panel (via the QGP Compliance Branch) for recommendation of an appropriate penalty under the Mandate, even though there has been no finding by a regulator or court. The Panel has discretion to determine whether to wait for a finding by a regulator before making recommendations on a penalty where this is appropriate (e.g. particularly regarding complex regulatory matters, such as some instances of sham contracting).

Refer to the **Section 4.2** of the *Ethical Supplier Mandate 2021* and **Section 5.4** of the *Guidelines: Ethical Supplier Mandate* for further details about this process.

3.7.2 Regulator decision

Where the procuring agency has referred a potential non-compliance to a regulator for investigation, the agency will likely need to follow up with the regulator or law enforcement agency to determine when they have made their relevant findings.

Where the supplier's non-compliance is confirmed by the regulator's findings, the breach will be referred to the Tripartite Procurement Advisory Panel, via the QGP Compliance Branch, for recommendation of a penalty under the Mandate.

The regulator's finding of non-compliance will also be reported to the QGP Compliance Branch for inclusion on the register of non-compliance (as per **Section 4.3** below).

Where a decision regarding penalty under the Mandate is made on the basis of compelling evidence, this decision is separate to a regulator's decision regarding non-compliance under legislation. The consideration of compelling evidence by the Panel proceeds regardless of the timing of the regulator's decision.

A regulator's finding that the legislative non-compliance is not proven may not affect a decision regarding a penalty applied under the Mandate, however an internal review will be conducted and

¹ where a supplier may have committed a wage theft (stealing) offence under Section 391(6A) of the *Criminal Code Act 1899 (Qld)* the matter will be referred to law enforcement agencies as appropriate.

legal advice will be sought by the procuring agency in those cases (see **Section 9** of *Guidelines: Ethical Supplier Mandate*).

The procuring agency Director-General will determine the appropriate response following the internal review and will advise the Deputy Director-General – Procurement of the outcome.

4 Consequences of a breach of the Threshold

4.1 Possible exclusion from tender process

If the procuring agency obtains evidence that the breach occurred (e.g. the supplier admitting to the breach), 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 relevant circumstances, 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, or self-reported, or rectified including by system improvements to ensure no repeated occurrence.

Where the procuring agency decides to proceed with a non-conforming offer the decision must be documented and defensible (see QPP **Principle 3.1**).

4.2 Penalties under the Mandate for breaching the Threshold

Failing to comply with the Threshold is considered a non-compliance for the purposes of the *Ethical Supplier Mandate 2021* (see **Section 4.1** of the *Ethical Supplier Mandate* and **Section 5** of the *Guidelines: Ethical Supplier Mandate*) and penalties may be issued including demerits or a sanction.

Where one instance of non-compliance is a breach of both the Threshold and the Mandate, the Tripartite Procurement Advisory Panel (see **Section 5** of the *Guidelines: Ethical Supplier Mandate*) will recommend an appropriate penalty under either policy or both policies according to the particular circumstances.

4.2.1 Demerits

Demerits can only be applied to a supplier if the contract during which the breach occurred came into effect after the date the Threshold commenced on 1 August 2019. Demerit decisions will be made by the Director-General of the procuring agency on recommendation of the Tripartite Procurement Advisory Panel.

Twenty (20) demerits can be applied as a penalty for a single breach of the Threshold which can result in a sanction (see **Section 4.1** of the *Ethical Supplier Mandate 2021*).

Procuring agencies will apply the sanction approved by the decision maker following consideration by the Panel.

For more information on demerits and the process of decision making refer to the *Ethical Supplier Mandate 2021* and *Guidelines: Ethical Supplier Mandate*.

4.2.2 Sanctions

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 will be issued by the Director-General of the procuring agency following recommendation of the Panel as defined under the *Ethical Supplier Mandate 2021*.

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

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- 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 a supplier's access to future contracts with government for the period of the sanction (up to 12 months).

For the most serious or repeated non-compliance, a sanction may be issued. 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.

Mandate and Threshold breaches associated with established and current contracts will be dealt with using the procuring agency's contract management processes.

A supplier will be sanctioned where they receive twenty (20) demerits at any one time, or over a 12-month period, unless the decision maker determines otherwise.

For more information on sanctions and the decision-making process refer to the *Ethical Supplier Mandate 2021* and *Guidelines: Ethical Supplier Mandate*.

4.2.3 Publication of information about sanctions

Where a sanction is imposed on a supplier and the procuring agency has authority to publish information about the imposition of the penalty (for example through a contractual term – see **Appendix 2**), the agency may decide to publish information disclosing the sanction that has been imposed on the supplier (see **Appendix 2 – Example clauses requiring compliance with the Threshold**).

Agencies should seek specific legal advice before publishing any information about sanctions.

The supplier will be given an opportunity to be heard before the proposed publication. Where the supplier is a natural person (a sole trader), then the agency must comply with the *Information Privacy Act 2009* and the *Human Rights Act 2019*.

4.3 Register of non-compliance

If a supplier has been confirmed as not complying with the Threshold (e.g. has made a self-declaration of non-compliance), the procuring agency will advise the QGP Compliance Branch within Queensland Government Procurement, for record-keeping purposes.

Government buyers will be able to request this information about a supplier from the QGP Compliance Branch when undertaking a procurement. A supplier's history of non-compliance will be taken into account during the procurement process.

Where a supplier is sanctioned for non-compliance with the Threshold, the supplier will be removed from pre-qualified supplier lists and the sanction will be entered on the non-compliance register which is available to government buyers via the online supplier check tool (available here: <https://www.forgov.qld.gov.au/complete-supplier-check>).

This tool will indicate whether a supplier is under a current sanction and therefore not permitted to do business with Queensland Government for the period of the sanction. This tool will also include current demerits that a supplier has been issued.

5 Tripartite Procurement Advisory Panel

5.1 Recommendation must be given objectively

The Tripartite Procurement Advisory Panel is a singular body that will be established by government to provide objective advice and recommendations to the decision makers regarding non-compliance with the Mandate and Threshold.

The Panel will consider alleged breach submissions and associated evidence (as referred by procuring agencies via the QGP Compliance Branch) and prepare a recommendation to the decision maker:

- substantiating whether there is a breach of the Threshold, and
- what penalties might be appropriate, including remedial actions or sanction.

All members and any future changes to the Panel will be determined by government.

The Panel must act objectively at all times, and in alignment with their Terms of Reference. Panel members must not have unauthorised contact with any person regarding a matter referred to them. Any contact must be conducted within the formal processes of the Panel and with the knowledge of the Panel. The Panel has the discretion to engage independent expert advisors and request such witnesses and testimony as required to fulfil their duties.

Panel recommendations regarding penalties must be:

- supported by sufficient evidence
- unaffected by any conflict of interest and
- made only when the majority of members present are in agreement.

Information shared with the Panel must be maintained securely and confidentially and treated in accordance with relevant legislation such as the *Information Privacy Act 2009*.

5.2 Conflicts of interest

Declaration of conflicts of interest will be the first agenda item at Panel meetings.

If a conflict of interest is identified and disclosed, the relevant Panel member will stop any further involvement with assessing the alleged breach and be replaced by a suitable representative without a conflict.

5.3 Recommendation on penalties by majority of Panel

All three (3) Panel members (or approved proxies) must be present (in person or remotely) in order for a demerit or sanction recommendation to be made. Decisions to recommend demerits or sanctions will be made on a majority decision of the Panel.

Where an instance of non-compliance is a breach of both the Threshold and the Mandate, the Panel has the discretion to recommend an appropriate penalty under either policy or both policies according to the particular circumstances.

6 Procedural fairness

If the investigation by the regulator or law enforcement agency determines there has been a breach of the law that is also a Threshold requirement, or where the procuring agency has compelling evidence that the breach occurred, the procuring agency will issue a *Show Cause Notice* to the supplier (refer to **Section 4.2** of the *Guidelines: Ethical Supplier Mandate*).

The supplier will have ten (10) business days from date of issue (see **Appendix 1** – Definitions) to respond. This gives a supplier an opportunity to provide further information before the procuring agency decides whether there is sufficient evidence to refer the matter to the Tripartite Procurement Advisory Panel.

Before the Panel makes a recommendation on penalty, and before the relevant decision maker determines to apply demerits or a sanction, the supplier will be issued with an *Extenuating Circumstances Notice* (refer to **Section 4.4** of the *Guidelines: Ethical Supplier Mandate*). This Notice will give the supplier an opportunity to provide further information that will be taken into account by the relevant decision maker.

Before the decision maker issues a sanction, they will issue the supplier with a *Proposed Sanction Notice* (refer to **Section 8.3** of the *Guidelines: Ethical Supplier Mandate*). This Notice provides an opportunity for the supplier to respond and state why the proposed sanction should not be applied.

Refer to the *Ethical Supplier Mandate 2021* and *Guidelines: Ethical Supplier Mandate* for further information.

7 Decision maker

The decision maker for issuing penalties under the Threshold will be the Director-General of the procuring agency subject to the contract under which the supplier's breach occurred.

For Government-Owned Corporations (GOCs) and statutory bodies, the matter will be referred to the Chief Executive of the decision maker, which is the GOC or statutory body itself.

Decisions made regarding an appropriate penalty under the Threshold for a supplier engaging in unethical conduct will be a separate decision to any regulatory matter being handled by a regulator or law enforcement agency.

When the decision maker intends to issue a penalty different to that recommended by the Panel, the decision maker should advise the Panel of their decision.

8 Internal Review

The DDG – Procurement (Deputy-Director General of the Department of Energy and Public Works) may review an investigation by an agency into a breach allegation. This review will only occur once:

- the procuring agency investigation has been finalised, and
- the procuring agency has determined not to make a referral to the Panel (i.e. alleged breach not progressed under the Mandate).

On these occasions, the DDG – Procurement may review the investigation as the result of enquiry, complaint or audit. As a result of the review, the DDG – Procurement may decide, on the basis of evidence available, to recommend that the procuring agency refer the matter to the Panel for recommendation of an appropriate penalty.

For Government-Owned Corporations and statutory bodies, the referral will be made to the entity, who will nominate an appropriate delegate.

Decisions regarding penalties under the Mandate are separate to any subsequent decisions made by regulators regarding the same non-compliance under the relevant legislation. This includes where a decision regarding a penalty under the Mandate is made on the basis of compelling evidence (including breaches of the Threshold).

A regulator's finding that the legislative non-compliance is not proven may not affect a decision regarding a penalty applied under the Mandate; however, an internal review will be conducted and legal advice will be sought by the procuring agency.

The procuring agency's Director-General² will determine the appropriate response following the internal review and will advise the DDG – Procurement of the outcome.

9 Appeal

A supplier may appeal a decision to apply a penalty for non-compliance under the Threshold.

A supplier (see **Appendix 1** – Definitions) can appeal a decision to apply demerits or a sanction if:

- they believe the process outlined in the Mandate and Threshold has not been followed;
- show cause details, extenuating circumstances or specific supporting evidence were not taken into account in the original decision; and/or
- the decision was not in line with the penalty guidelines.

The appeal may be made to the Panel via the Executive Officer within the Queensland Government Procurement (QGP) Compliance Branch at ethicalsupply@epw.qld.gov.au. This must occur within ten (10) business days from the date the *Outcome Notice* was issued.

² The procuring agency Director General (or appropriate delegate) or in the case of Government-Owned Corporations and statutory bodies, appropriate nominated representative of the corporate entity.

To ensure an impartial assessment, members involved in the original consideration will be secluded, with the exception of the chair. To increase the level of independent scrutiny and expertise for the appeals process, the appeals process incorporates two additional Panel members.

The Panel:

- assess the appeal of the decision against the above criteria;
- deliberate and consider the merits of the appeal; and
- make a recommendation to the decision maker regarding the appeal.

The appeal process is not an opportunity to revisit the facts of the breach that gave rise to the demerits or sanction. It is not a re-investigation of the non-compliance.

9.1 The decision maker for appeals

The decision maker responsible for the appeal decision remains the Director-General of the procuring agency subject to the contract under which the breach occurred. For Government-Owned Corporations (GOCs) and statutory bodies, the decision-maker will be the GOC or statutory body itself.

Where the decision maker determines to uphold a different outcome to that recommended by the Panel, the decision maker will provide a copy of reasons for decision to the Panel, the DDG – Procurement, and in a written notification to the supplier.

See **Section 7** for further information on the decision-maker.

Following consideration of the Panel's advice and recommendation regarding the appeal, the decision of the Director-General (or appropriate delegated representative) will be considered final.

Appendix 1 – Definitions

Term	Description
Breach	A breach of the Ethical Supplier Mandate or Ethical Supplier Threshold, where a supplier has been determined to be non-compliant with the requirements of the policy. <ul style="list-style-type: none"> For the purposes of this policy and all corresponding documentation, a breach will remain alleged until the final decision maker considers it confirmed.
Business day	A day that is not a Saturday, Sunday or a public holiday in Queensland.
Compelling evidence	Compelling evidence of a breach 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. <ul style="list-style-type: none"> A non-compliance can be dealt with under the Mandate 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 breaches of the Local Benefits Test or other contractual requirements where there is no regulator. A decision regarding imposing a penalty under the Mandate can be made where compelling evidence exists for relevant breaches. Procedural fairness will still apply and suppliers will have a chance to challenge an allegation or rectify a breach.
Complainant	The person who has made a complaint regarding an alleged breach of the Mandate.
Date of issue	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). <ul style="list-style-type: none"> Where same day delivery is not possible (i.e. post) the date of issue is five (5) business days after the Notice was posted.
Declared by the Minister	Declared in writing by the Minister responsible for the category, in consultation with: <ul style="list-style-type: none"> the Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement, and the Premier and Minister for Trade.
Deputy Director-General – Procurement	The Deputy Director-General – Procurement (DDG – Procurement) of Queensland Government Procurement within the Department of Energy and Public Works.
Director-General of the procuring agency	The Director-General, responsible for the contract during which the supplier engaged in the non-compliant conduct.
Ethical Supplier Threshold	The Ethical Supplier Threshold described in the Queensland Procurement Policy, that is, whether a supplier has: <ol style="list-style-type: none"> 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> 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 failed to make superannuation contributions on behalf of employees in accordance with law purported to treat employees as independent contractors, where they are not required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees

	<p>(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</p> <p>(h) paid employee wages below those provided for in an applicable modern award.</p>
Guidelines	<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"> – Guides may include specific steps that should be followed to complete a given process in support of a policy requirement
Low value procurement	<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"> – 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.
Policy requirement	<p>A requirement of:</p> <ul style="list-style-type: none"> – the <i>Queensland Procurement Policy (QPP)</i> – the <i>Queensland Government Procurement Strategy</i> – procurement-related policies and instruments as listed in Schedule 3 to the QPP – 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.
Pre-qualified supplier	<p>A pre-qualified supplier means a supplier registered with:</p> <ul style="list-style-type: none"> • the Prequalification System of the Capital Works Management Framework • the National Prequalification System for Civil (Road and Bridge) Construction Contracts • arrangements administered by General Goods and Services, Department of Energy and Public Works; or • QBuild as a prequalified supplier.
Procuring agency	<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"> – The 'department sponsoring the project' for the purposes of the <i>Capital Works Management Framework</i> is the 'procuring agency' for the purposes of this Mandate. – For the purposes of this Mandate, the procuring agency is the agency responsible for the contract during which the supplier's non-compliance occurred
Queensland Government contract	<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"> – 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.
Sanction	<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"> – 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

	<ul style="list-style-type: none"> - suspending a supplier from any Queensland Government panel or contracting framework for a defined period and - a suspended sanctions penalty, pending successful implementation of any recommended corrective actions.
Supplier	<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"> - The definition of 'supplier' includes subcontractors within the supply chain. - The principal supplier under contract to the procuring agency is responsible for conduct of suppliers within their supply chain. - Suppliers may be penalised for breaches by their subcontractors, except where the supplier has taken reasonable action to prevent the breach by their subcontractors, in addition to any penalties applied to the subcontractor.
Tripartite Procurement Advisory Panel (the Panel)	<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"> - Initial breaches are 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. <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 breach.</p>

Appendix 2 – Example clauses requiring compliance with the Threshold

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

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

Note – this 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]

2 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 employees wages below those provided for in an applicable modern award?

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.

Add these new definitions into the Definitions and Interpretation document:

Ethical Supplier Threshold means the Ethical Supplier Threshold described in paragraph 2.3 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 Public Works, and any governmental regulator, including but not limited to Work Health Safety Queensland, the Queensland Building and Construction Commission, the Fair Work Commission, the Australian Taxation Office and the Australian Building and Construction Commission.

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 Tripartite Panel for the making of a recommendation about non-compliance and penalty under the Ethical Supplier Mandate and to the Director-General, 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 3 – 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
If yes to any of the above, has the non-compliance been investigated and an outcome obtained previously (after 1 August 2019) by a Queensland Government procuring agency?	Reference/Case number: _____
<p>Compliance information disclosure consent</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 4 – Examples of non-compliance under the Ethical Supplier Threshold

Note: This table outlines possible examples and is intended to be used as a guide only³. Refer to **Appendix 1** for the definition of compelling evidence.

Conduct of this kind can be a non-compliance under the Ethical Supplier Threshold:	
Contravened a civil remedy provision of Chapter 2 or Chapter 3 of the <i>Fair Work Act 2009 (Cth)</i> , or committed an offence against the <i>Fair Work Act</i>	
Policy intent	Where a supplier is considered proven (including by compelling evidence ⁴ in certain circumstances) to have done any one of the following: <ul style="list-style-type: none"> • contravened a civil remedy provision of Chapter 2 (Terms and conditions of employment) of the <i>Fair Work Act 2009 (Cth)</i>, • contravened a civil remedy provision of Chapter 3 (Rights and responsibilities of employees, employers, organisations etc.) of the <i>Fair Work Act 2009 (Cth)</i>, • committed an offence against the <i>Fair Work Act 2009 (Cth)</i>.
Further breakdown	Where a supplier is considered proven to have done any of the following: <ul style="list-style-type: none"> • contravened the National Employment Standards (Chapter 2), • contravened a modern award (Chapter 2), • contravened an enterprise agreement (Chapter 2), • contravened a workplace determination (Chapter 2), • contravened a national minimum wage order (Chapter 2), • contravened an equal remuneration order (Chapter 2), • contravened other terms and conditions of employment (Chapter 2), • contravened a general protections requirement (Chapter 3), including <ul style="list-style-type: none"> ○ exercising workplace rights, ○ discrimination, ○ sham arrangements ○ contravening costs orders • contravened an order related to unfair dismissal (Chapter 3), • contravened requirements related to industrial action (Chapter 3), • contravened a protected action ballot order (Chapter 3), • contravened a right of entry requirement (Chapter 3), • contravened an order related to dealing with a dispute (Chapter 3), • contravened an order related to misuse of rights (Chapter 3), • contravened other employment rights and responsibilities (Chapter 3), • committed an offence against the <i>Fair Work Act 2009 (Cth)</i>, including <ul style="list-style-type: none"> ○ insulting or disturbing an FWA Member, ○ contravening an FWA order, ○ intimidating or threatening behaviour towards individuals proposing to share information or documents with FWA,

³ These examples will not determine any actual demerit decision that will be made taking into account the relevant circumstances of a particular supplier. It may not be relied upon by any other party. The Department of Energy and Public Works 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.

⁴ See the definition of compelling evidence in **Appendix 1 - Definitions**.

	<ul style="list-style-type: none"> ○ non-attendance at the request of FWA, ○ refusal to take an oath or make an affirmation at the request of FWA, ○ provision of false or misleading evidence to FWA, <p>The above provides categorised examples of non-compliant activity. This list is not exhaustive. A table of civil remedy provisions of the <i>Fair Work Act 2009</i> can be found in Part 4-1 of the Act at section 539.</p>
Examples	<ul style="list-style-type: none"> ● A supplier pays staff wages less than the minimum pay standards outlined in the applicable modern award. ● A supplier violates a term of an enterprise agreement. ● A supplier fails to uphold an employee's return to work guarantee after receiving unpaid parental leave. ● A supplier does not pay a previous employee redundancy pay, where it is entitled. ● A supplier owes employees in excess of 4 weeks wages. ● A supplier imposes undue influence, pressure or coercion on an employee to accept terms of an employment agreement. ● A supplier discriminates against an employee based on their industrial activities. ● A supplier unfairly dismisses an employee. ● A supplier directs an employee not to provide requested information to Fair Work Australia.
<p>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</p>	
Policy intent	<p>Where a supplier is considered proven (including by compelling evidence in certain circumstances⁵) to have done any of the following:</p> <ul style="list-style-type: none"> ● contravened a civil remedy provision of Chapter 2 (Modern employment conditions) of the <i>Industrial Relations Act 2016</i>, ● contravened a civil remedy provision of Chapter 3 (Modern awards) of the <i>Industrial Relations Act 2016</i>, ● contravened a civil remedy provision of Chapter 4 (Collective bargaining) of the <i>Industrial Relations Act 2016</i>, ● contravened a civil remedy provision of Chapter 5 (Equal remuneration) of the <i>Industrial Relations Act 2016</i>, ● contravened a civil remedy provision of Chapter 7 (Employees bullied in the workplace) of the <i>Industrial Relations Act 2016</i>, ● committed an offence against the <i>Industrial Relations Act 2016</i>, ● failed to pay employment related entitlements, or other payments, established under Queensland legislation.
Further breakdown	<p>Where a supplier is considered proven to have done any of the following:</p> <ul style="list-style-type: none"> ● contravened a modern award (Chapter 3). ● contravened a conciliation attendance notice issued by the Queensland Industrial Relations Commission (Chapter 4). ● contravened a bargaining instrument (Chapter 4). ● contravened the requirements of a proposed bargaining instrument by engaging in industrial action (Chapter 4). ● contravened requirements of protected industrial action by showing prejudice to employees proposing to pursue such engagement (Chapter 4). ● contravened rights related to a proposed bargaining instrument by coercion and influence associated with seeking industrial action (Chapter 4). ● contravened a request for wage-related information issued by the Queensland Industrial Relations Commission (Chapter 5).

⁵ See the definition of compelling evidence in **Appendix 1 – Definitions**.

	<ul style="list-style-type: none"> • contravened an industrial dispute attendance notice issued by the Queensland Industrial Relations Commission (Chapter 6). • contravened an order to stop bullying as issued by the Queensland Industrial Relations Commission (Chapter 7). • contravened other employment rights and responsibilities (Chapter 8). • committed an offence against the Industrial Relations Act, including <ul style="list-style-type: none"> ○ disobeying penalty orders, ○ improper conduct towards member, magistrate or registrar, ○ contempt by witness, ○ false or misleading statements or documents, ○ misleading employment arrangements ○ non-payment of wages ○ contravention of industrial instruments, • failed to pay employment related entitlements, or other payments, as required under the <i>Industrial Relations Act</i>, including the modern employment conditions in Chapter 2, for example: <ul style="list-style-type: none"> ○ failed to re-engage a long-term casual employee only because the employee has taken carers leave under Section 44 of the <i>Industrial Relations Act 2016</i>, ○ failed to re-engage a long-term casual employee only because the employee has taken bereavement leave under Section 48 of the <i>Industrial Relations Act 2016</i>. <p>The above provides categorised examples of non-compliant activity. This list is not exhaustive. A table of civil remedy provisions of the <i>Industrial Relations Act 2016</i> can be found in Schedule 3 of the Act.</p>
Examples	<ul style="list-style-type: none"> • A supplier, who is declared not to be a national systems employer, pays staff wages less than the minimum pay standards outlined in the applicable modern award. • A supplier, who is a local government organisation, provides false documents to the Queensland Industrial Relations Commission. • A supplier, who is a Queensland Government statutory body, disobeys an attendance notice issued by the Queensland Industrial Relations Commission.
Failed to make superannuation contributions on behalf of employees in accordance with law	
Policy intent	Where a supplier is considered proven (including by compelling evidence in certain circumstances ⁶) to have failed to make any, or a portion of, legislated superannuation contribution sums on behalf of any employee. And where a supplier may have committed a wage theft (stealing) offence under section 391(6A) of the <i>Criminal Code Act 1899 (Qld)</i> .
Further breakdown	<p>Businesses which operate with an employee model are required to adhere to the nationally mandated Superannuation Guarantee. This guarantee outlines the minimum rates in which superannuation contributions should be made by an employer. This is generally calculated by:</p> <p>If an employee is paid \$450 or more before tax in a calendar month, the employer will be required to pay super on top of their wages.</p> <ul style="list-style-type: none"> • the SG is currently 9.5% of an employee’s ordinary time earnings • the employer must pay the SG at least four times a year, by the quarterly due dates • the employer must pay and report super electronically in a standard format, ensuring they meet SuperStream requirements • super payments must go to a complying super fund – most employees can choose their own fund
Examples	<ul style="list-style-type: none"> • A supplier fails to make superannuation contributions on behalf of an employee, where eligible. • A supplier underpays a superannuation contribution on behalf of an employee, where eligible.

⁶ See definition of compelling evidence in **Appendix 1 - Definitions**.

<p>Purported to treat employees as independent contractors, where they are not, or;</p> <ul style="list-style-type: none"> required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors 							
<p>Policy intent</p>	<p>Where a supplier is considered proven (including by compelling evidence in certain circumstances⁷) to have engaged an individual, for any period of time, as an independent contractor, where their employment relationship was clearly identified as an employee.</p> <p>Information on the ATO website provides guidance on which factors indicate whether a person should be treated as an employee or an independent contractor: https://www.ato.gov.au/Business/Employee-or-contractor/How-to-work-it-out--employee-or-contractor/.</p> <p>See further guidance in this table, as identified by the Fair Work Ombudsman:</p> <table border="1"> <tr> <td colspan="2"> <p>There are a number of factors that can help distinguish the difference between an employee and a contractor. A number of variables need to be considered, there isn't one characteristic that makes a difference on its own.</p> </td> </tr> <tr> <td style="background-color: #800040; color: white; text-align: center;"> <p>Employees</p> </td> <td style="background-color: #800040; color: white; text-align: center;"> <p>Independent contractors</p> </td> </tr> <tr> <td> <p>The factors that are indicative of an employee are that they:</p> <ul style="list-style-type: none"> have their work directed and controlled by their employer work set or standard hours (casual employees hours can vary from week to week) usually have an ongoing expectation of work bear no financial risk – it's covered by their employer's insurance are provided by their employer with tools or a tool allowance is provided have income tax deducted by their employer are paid wages or a salary regularly are entitled to paid leave </td> <td> <p>The factors that are indicative of independent contractors are that they:</p> <ul style="list-style-type: none"> have a high level of control over how the work is done, including the choice to hire others to assist agree to the hours required to complete the job usually engaged for a specific task or time bear the risk of making a profit or a loss and usually bears responsibility and liability for poor work or injury and usually have their own insurance use their own tools and equipment pay their own tax and GST have an ABN and submits invoices don't receive paid leave. </td> </tr> </table>	<p>There are a number of factors that can help distinguish the difference between an employee and a contractor. A number of variables need to be considered, there isn't one characteristic that makes a difference on its own.</p>		<p>Employees</p>	<p>Independent contractors</p>	<p>The factors that are indicative of an employee are that they:</p> <ul style="list-style-type: none"> have their work directed and controlled by their employer work set or standard hours (casual employees hours can vary from week to week) usually have an ongoing expectation of work bear no financial risk – it's covered by their employer's insurance are provided by their employer with tools or a tool allowance is provided have income tax deducted by their employer are paid wages or a salary regularly are entitled to paid leave 	<p>The factors that are indicative of independent contractors are that they:</p> <ul style="list-style-type: none"> have a high level of control over how the work is done, including the choice to hire others to assist agree to the hours required to complete the job usually engaged for a specific task or time bear the risk of making a profit or a loss and usually bears responsibility and liability for poor work or injury and usually have their own insurance use their own tools and equipment pay their own tax and GST have an ABN and submits invoices don't receive paid leave.
<p>There are a number of factors that can help distinguish the difference between an employee and a contractor. A number of variables need to be considered, there isn't one characteristic that makes a difference on its own.</p>							
<p>Employees</p>	<p>Independent contractors</p>						
<p>The factors that are indicative of an employee are that they:</p> <ul style="list-style-type: none"> have their work directed and controlled by their employer work set or standard hours (casual employees hours can vary from week to week) usually have an ongoing expectation of work bear no financial risk – it's covered by their employer's insurance are provided by their employer with tools or a tool allowance is provided have income tax deducted by their employer are paid wages or a salary regularly are entitled to paid leave 	<p>The factors that are indicative of independent contractors are that they:</p> <ul style="list-style-type: none"> have a high level of control over how the work is done, including the choice to hire others to assist agree to the hours required to complete the job usually engaged for a specific task or time bear the risk of making a profit or a loss and usually bears responsibility and liability for poor work or injury and usually have their own insurance use their own tools and equipment pay their own tax and GST have an ABN and submits invoices don't receive paid leave. 						
<p>Examples</p>	<ul style="list-style-type: none"> A supplier directs an employee to provide an invoice for their hours worked, despite having conducted a recruitment interview and placed that employee onto a probationary period. A supplier directs an employee to provide an invoice for the portion of their hours worked that would have been considered overtime. A supplier operates under a model where all employees are considered independent contractors, despite their contributions falling in line with the definition of an employee. 						
<p>Engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees</p>							
<p>Policy intent</p>	<p>Where a supplier is considered proven (including by compelling evidence in certain circumstances⁷) to have engaged an individual, for any period of time, under an unfair arrangement of unpaid work trials or unpaid intern, where the individual should have been treated as an employee.</p>						
<p>Further breakdown</p>	<p>Unpaid work trials may be unlawful where:</p> <ul style="list-style-type: none"> it isn't necessary to demonstrate the skills required for the job, or has continued for longer than is actually needed. This will be dependent on the nature and complexity of the work, but could range from an hour to one shift it involves more than only a demonstration of the person's skills, where they are directly relevant to a vacant position, or the person is not under direct supervision for the trial. 						

⁷ See definition of compelling evidence in **Appendix 1 - Definitions**.

	<p>Work experience and internships are types of on-the-job training. They can span different lengths of time and can lead to ongoing employment. People doing this kind of training don't need to be paid if there's no employment relationship in place. But if there is, then the person doing the training is an employee.</p>
Examples	<ul style="list-style-type: none"> • A supplier requires a potential employee to perform an unpaid work trial, where there isn't a necessity to demonstrate a particular skill set for the role. • A supplier requires a potential employee to perform an unpaid work trial, however does not supervise the trial activities. • A supplier engages an individual for an internship, however requires that individual to perform the duties of an employee.
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 provider under the Act	
Policy intent	Where a supplier has been proven to have engaged an individual or business for the provision of labour hire services without performing due diligence in ensuring all relevant licenses required under the <i>Labour Hire Licensing Act 2017</i> have been obtained, or are current at the time of engagement.
Examples	<ul style="list-style-type: none"> • A supplier entered into an arrangement with an employment agency for the engagement of temporary administration staff and the agency was not licensed as required under the <i>Labour Hire Licensing Act</i>.
Paid employees wages below those provided for in an applicable modern award	
Policy intent	<p>Where a supplier is considered proven (including by compelling evidence in certain circumstances⁸) to have paid employee wages below that of a modern award.</p> <p>The Queensland Government is committed to doing business with suppliers who deliver genuine, quality, secure ongoing jobs with fair pay. This will benefit the broader Queensland community by ensuring that Queensland taxpayers' money is used to build the local economy and support quality Queensland jobs. Fair rates of pay can attract and retain high quality employees and ensure that those doing work for Government are remunerated at an appropriate level, as measured against the rates set under modern awards.</p>
Further breakdown	<p>A modern award is a document which sets out the minimum terms and conditions of employment on top of the National Employment Standards (NES). Moderns awards came into effect on 1 January 2010.</p> <p>Modern awards provide entitlements such as:</p> <ul style="list-style-type: none"> • Pay • hours of work • rosters • breaks • allowances • penalty rates • overtime. <p>If an existing contractor's wage and entitlement arrangements fall below the applicable modern award due to being set out in an agreement made prior to 2010⁹, the managing agency should take a risk-based approach of addressing the issue and seek legal advice. This can include a contract management action plan to align the contractor arrangement with the <i>Fair Work Act 2009 (Cth)</i> safety net of minimum entitlements, enabling flexible working arrangements and fairness at work and prevent discrimination against employees.</p>
Examples	<ul style="list-style-type: none"> • A supplier pays employees a wage lesser than the minimum rate outlined in the applicable modern award.

⁸ See definition of compelling evidence in **Appendix 1 - Definitions**.

⁹ <https://www.fairwork.gov.au/awards-and-agreements/agreements/agreements-made-before-1-jan-2010>

Appendix 5 – Categories of non-compliance: Reference table

To assist both procuring agencies and suppliers in the understanding and application of the Threshold categories of non-compliance, the below table has been developed¹⁰. This reference table provides a break-down of the key areas related to the category and links users back to the source of the obligation¹¹.

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.

a. Contravened a civil remedy provision of Chapter 2 or Chapter 3 of the <i>Fair Work Act 2009 (Cth)</i> , or committed an offence against the Fair Work Act		
Related non-compliance areas	Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • National Employment Standards • Modern awards • Enterprise agreements • Workplace determinations • National minimum wage orders • Equal remuneration orders • Terms and conditions of employment • General protections requirements, including <ul style="list-style-type: none"> ○ Workplace rights ○ Discrimination 	<ul style="list-style-type: none"> ○ Sham arrangements ○ Costs orders • Unfair dismissals • Industrial actions • Action ballot orders • Rights of entry • Disputes • Misuse of rights • Employment rights and responsibilities • Offences against the <i>Fair Work Act 2009 (Cth)</i> 	<ul style="list-style-type: none"> • Tender documents - Contract • <i>Fair Work Act 2009 (Cth)</i> <p> Fair Work Act 2009 Queensland Procurement Policy (QPP) 2021 Ethical Supplier Mandate (the Mandate) 2021 Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 (Qld) </p>

¹⁰ The Department of Energy and Public Works 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.

¹¹ Regulators as mentioned in the *Categories of non-compliance: Reference table* refer to the appropriate regulator or law enforcement agency.

Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <li style="text-align: center;">and/or ✓ Regulator outcome 	<p>Compelling evidence and/or a regulator decision may be considered where the breach relates to these non-compliance areas:</p> <ul style="list-style-type: none"> ▪ Underpayment of wages ▪ Underpayment of superannuation ▪ Certain instances of sham contracting 	<ul style="list-style-type: none"> ▪ Pay slips ▪ Bank statements ▪ Superannuation records ▪ Entry notice 	<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> <p>Australian Building and Construction Commission (ABCC) Ph: 1800 003 338</p>
<ul style="list-style-type: none"> ✓ Regulator outcome 	<p>For all other matters falling under category (a.), a regulator outcome is required</p> <p>Investigating agencies may obtain further evidence to assist the Panel in its consideration</p>		

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

Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Modern awards • Conciliation • Bargaining instruments • Industrial instruments • Industrial action • Attendance notices • Queensland Industrial Relations Commission requests • Bullying 	<ul style="list-style-type: none"> • Employment rights • Employment arrangements • Penalty orders • Inappropriate conduct • Contempt • Wages • Employee entitlements 	<ul style="list-style-type: none"> • Tender documents • Contract • <i>Industrial Relations Act 2016</i> (Qld) 	<p>Industrial Relations Act 2016</p> <p>Queensland Procurement Policy (QPP) 2021</p> <p>Ethical Supplier Mandate (the Mandate) 2021</p> <p>Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 (Qld)</p>
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <p>and/or</p> <ul style="list-style-type: none"> ✓ Regulator outcome 	<p>Compelling evidence and/or a regulator decision may be considered where the breach relates to these non-compliance areas:</p> <ul style="list-style-type: none"> ▪ Underpayment of wages ▪ Underpayment of superannuation ▪ Certain instances of sham contracting 	<ul style="list-style-type: none"> ▪ Pay slips ▪ Bank statements ▪ Superannuation records 	<p>Queensland Industrial Relations Commission Ph: 1300 362 128</p> <p>Australian Tax Office (ATO) Ph: 13 10 20</p> <p>Queensland Police Ph: 131 444</p>
<ul style="list-style-type: none"> ✓ Regulator outcome 	<p>For all other matters falling under category (b.), a regulator outcome is required</p> <p>Investigating agencies may obtain further evidence to assist the Panel in its consideration</p>		

c. Failed to make superannuation contributions on behalf of employees in accordance with law

Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Superannuation • Employee entitlements • Superannuation Guarantee 		<ul style="list-style-type: none"> • Tender documents • Contract • <i>Fair Work Act 2009</i> (Cth) 	Australian Taxation Office Queensland Procurement Policy (QPP) 2021 Ethical Supplier Mandate (the Mandate) 2021 Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 (Qld)
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <p>and/or</p> <ul style="list-style-type: none"> ✓ Regulator outcome 	<p>Evidence obtained through investigation, where a regulator outcome is not in consideration, and/or</p> <p>A regulator outcome may be used to escalate a breach in this category, however it is not essential</p> <p>Where a regulator outcome is relied on, investigating agencies may obtain further evidence to assist the Panel in its consideration</p>	<ul style="list-style-type: none"> ▪ Pay slips ▪ Superannuation records 	<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> <p>Australian Building and Construction Commission (ABCC) Ph: 1800 003 338</p>

d. Purported to treat employees as independent contractors, where they are not

Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Employment arrangements • Independent contractors • Sham contracting 		<ul style="list-style-type: none"> • Tender documents • Contract • <i>Fair Work Act 2009</i> (Cth) 	Fair Work Ombudsman Queensland Procurement Policy (QPP) 2021 Ethical Supplier Mandate (the Mandate) 2021
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <p>and/or</p> <ul style="list-style-type: none"> ✓ Regulator outcome 	<p>Evidence obtained through investigation, where a regulator outcome is not in consideration, and/or</p> <p>A regulator outcome may be used to escalate a breach in this category, however it is not essential</p> <p>Where a regulator outcome is relied on, investigating agencies may obtain further evidence to assist the Panel in its consideration</p>	<ul style="list-style-type: none"> ▪ Supplier invoices ▪ Rosters ▪ Responses to employee status questions e.g. ATO 	<p>Fair Work Ombudsman Ph: 13 13 94</p> <p>Australian Tax Office (ATO) Ph: 13 10 20</p> <p>Australian Building and Construction Commission (ABCC) Ph: 1800 003 338</p>

e. Required persons who would otherwise be employees to provide an Australian Business Number so that they could be treated as independent contractors

Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Employment arrangements • Independent contractors • Sham contracting 		<ul style="list-style-type: none"> • Tender documents • Contract • <i>Fair Work Act 2009</i> (Cth) 	Fair Work Ombudsman Queensland Procurement Policy (QPP) 2021 Ethical Supplier Mandate (the Mandate) 2021
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <p>and/or</p> <ul style="list-style-type: none"> ✓ Regulator outcome 	<p>Evidence obtained through investigation, where a regulator outcome is not in consideration, and/or</p> <p>A regulator outcome may be used to escalate a breach in this category, however it is not essential</p> <p>Where a regulator outcome is relied on, investigating agencies may obtain further evidence to assist the Panel in its consideration</p>	<ul style="list-style-type: none"> ▪ Supplier invoices ▪ Rosters 	<p>Fair Work Ombudsman Ph: 13 13 94</p> <p>Australian Building and Construction Commission (ABCC) Ph: 1800 003 338</p>

f. Engaged persons on unpaid work trials or as unpaid interns, where they should be treated as employees

Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Employment arrangements • Interns • Work trials 		<ul style="list-style-type: none"> • Tender documents • Contract 	Fair Work Ombudsman Queensland Procurement Policy (QPP) 2021

		<ul style="list-style-type: none"> • <i>Fair Work Act 2009</i> (Cth) 	Ethical Supplier Mandate (the Mandate) 2021
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <p style="text-align: center;">and/or</p> <ul style="list-style-type: none"> ✓ Regulator outcome 	<p>Evidence obtained through investigation, where a regulator outcome is not in consideration, and/or</p> <p>A regulator outcome may be used to escalate a breach in this category, however it is not essential</p> <p>Where a regulator outcome is relied on, investigating agencies may obtain further evidence to assist the Panel in its consideration</p>	<ul style="list-style-type: none"> ▪ Agreement records ▪ Rosters ▪ Position description 	<p>Fair Work Ombudsman Ph: 13 13 94</p> <p>Australian Building and Construction Commission (ABCC) Ph: 1800 003 338</p>

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

Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Trade licenses • Business licenses 		<ul style="list-style-type: none"> • Tender documents • Contract • <i>Labour Hire Licensing Act 2017</i> (Qld) 	<ul style="list-style-type: none"> • Labour Hire Licensing Act 2017 • Queensland Procurement Policy (QPP) 2021 • Ethical Supplier Mandate (the Mandate) 2021
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✗ Compelling evidence 	Not applicable	<ul style="list-style-type: none"> ▪ Information notice 	Office of Industrial Relations

✓ Regulator outcome	A breach in this category will require a regulator outcome. Investigating agencies may obtain further evidence to assist the Panel in its consideration	<ul style="list-style-type: none"> ▪ License registration records 	Ph: 1300 576 088
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h. Paid employees wages below those provided for in an applicable modern award			
Related non-compliance areas		Source of commitment - examples	Related resources
<ul style="list-style-type: none"> • Modern awards • Staff wages 		<ul style="list-style-type: none"> • Tender documents • Contract • <i>Fair Work Act 2009</i> (Cth) 	Fair Work Act 2009 Queensland Procurement Policy (QPP) 2021 Ethical Supplier Mandate (the Mandate) 2021
Applicable evidence types		Example evidence	Regulator contact details
<ul style="list-style-type: none"> ✓ Compelling evidence <p>and/or</p> <ul style="list-style-type: none"> ✓ Regulator outcome 	<p>Evidence obtained through investigation, where a regulator outcome is not in consideration, and/or</p> <p>A regulator outcome may be used to escalate a breach in this category, however it is not essential</p> <p>Where a regulator outcome is relied on, investigating agencies may obtain further evidence to assist the Panel in its consideration</p>	<ul style="list-style-type: none"> ▪ Pay slips 	<p>Fair Work Ombudsman Ph: 13 13 94</p> <p>Australian Building and Construction Commission (ABCC) Ph: 1800 003 338</p>

Appendix 6 – Supplier timelines for responding to breaches

The timeframes are standard best practice:

- where a matter is complex, the supplier can apply for an extension at any stage;
- extensions are granted at the discretion of the procuring agency or the Queensland Government Procurement (QGP) Compliance Branch.

Where possible, to ensure swift communication notifications should be sent to suppliers via email and a record retained.

Step in alleged breach process		Recommended timeframes <i>(from date of issue)</i>	Further comments / advice
Non – compliance in a tender			
Breach Assessment	Response to notice of non-compliance with the Ethical Supplier Mandate and/or Ethical Supplier Threshold	<ul style="list-style-type: none"> ▪ Ten (10) business days 	<ul style="list-style-type: none"> ▪ The supplier provides further evidence regarding non-compliance and steps taken for rectification (separate from a Show Cause notification). <ul style="list-style-type: none"> – For example, the supplier may be notified via email, phone call, or site visit.
	Referral of non-compliance matter to the Tripartite Procurement Advisory Panel (the Panel)	<ul style="list-style-type: none"> ▪ Five (5) business days 	<ul style="list-style-type: none"> ▪ The procuring agency must refer the declared non-compliance to the Panel for consideration and advice after collecting sufficient evidence to support the breach.
	Notification of outcome	<ul style="list-style-type: none"> ▪ Five (5) – ten (10) business days 	<ul style="list-style-type: none"> ▪ The procuring agency to notify the supplier of the outcome, including (if relevant) the matter's inclusion in the centralised online non-compliance register.
Non – compliance during the term of an existing contract			
Breach Investigation	Notification that a matter has been referred to the appropriate regulator for further investigation	<ul style="list-style-type: none"> ▪ Five (5) business days 	<ul style="list-style-type: none"> ▪ The procuring agency advises the supplier that the matter has been referred to the appropriate regulator (regulatory processes apply).

Step in alleged breach process		Recommended timeframes <i>(from date of issue)</i>	Further comments / advice
	Notification that a matter has been referred to the Panel for further consideration and advice	<ul style="list-style-type: none"> Five (5) business days 	<ul style="list-style-type: none"> The procuring agency advises the supplier that the matter has been referred to the Panel.
Consequences of non-compliance – application of the Ethical Supplier Mandate and Ethical Supplier Threshold			
Notification of Outcome	Response to Show Cause Notice	<ul style="list-style-type: none"> Ten (10) business days 	<ul style="list-style-type: none"> This process is separate from the standard show cause process under Queensland Government contract management practices.
	Response to Extenuating Circumstances Notice	<ul style="list-style-type: none"> Ten (10) business days 	<ul style="list-style-type: none"> The Executive Officer - QGP Compliance Branch issues the Extenuating Circumstances Notice ahead of a referral to the Panel.
	Outcome Notice	<ul style="list-style-type: none"> Five (5) business days 	<ul style="list-style-type: none"> The supplier is notified of the investigation outcome in writing by the procuring agency.
	Lodgement of an Appeal	<ul style="list-style-type: none"> Ten (10) business days 	<ul style="list-style-type: none"> The supplier may appeal the decision maker's decision/s to apply penalties under the Mandate and or the Threshold.
Outcomes / Recommendation	Demerit points	<ul style="list-style-type: none"> Twelve (12) months 	<ul style="list-style-type: none"> Demerit points, once applied, are in place for a set time (up to 12 months). Demerit points ranging from 1-19 do not restrict the supplier from doing business with the Queensland Government.

Step in alleged breach process		Recommended timeframes <i>(from date of issue)</i>	Further comments / advice
	Sanctions	<ul style="list-style-type: none"> Up to - twelve (12) months 	<ul style="list-style-type: none"> Sanctions once applied are in place for a set time (up to 12 months). During this time, a supplier cannot do business with the Queensland Government.
	Publication of information about sanctions	<ul style="list-style-type: none"> Ten (10) business days 	<ul style="list-style-type: none"> Once the supplier has been sanctioned, the procuring agency may choose to enact existing contractual penalties (for example, publication of sanction outcomes). Procuring agencies are encouraged to seek legal advice before enacting these contractual clauses.