Complaint Breach Report

**Ethical Supplier Mandate/Ethical Supplier Threshold**

Purpose

The purpose of this Breach report is to capture the investigation process and evidence gathered in chronological order as it relates to the alleged breach of the Ethical Supplier Threshold, legislation, contractual obligation or government policy. This report provides details on the decision substantiating whether the alleged breach is able to be progressed to the Tripartite Procurement Advisory Panel (the Panel) for its consideration.

It comprises four sections:

1. Procuring Agency/ QGP Compliance Branch-Procurement Investigation Unit Non-compliance Referral

2. QGP Compliance Branch - Strategy and Coordination Unit Non-Compliance Referral

3. Tripartite Procurement Advisory Panel Non-Compliance Recommendation

4. Decision Maker Non-Compliance Outcome

Cover summary

|  |  |
| --- | --- |
| **Reference no:** |  |
| **Project name:**  |  |
| **Project address:** |  |
| **Procuring Agency:** |  |
| **Managing Procuring Agency:**  | <Insert Managing Procuring Agency name> or ☐ Not applicable> |
| **Business area:**  | <Area within the Agency > or ☐ Not applicable |
| **Date of referral:** | Click or tap to enter a date. |

# 1. Procuring Agency/QGP Compliance Branch-Procurement Investigation Unit Non-Compliance Referral

**Subsections 1.1-1.10** are completed by the Procuring Agency/QGP Compliance Branch - Procurement Investigation Unit referring the alleged non-compliance prior to submission to the QGP Compliance Branch - Strategy and Coordination Unit

1.1. Purpose

|  |
| --- |
| **For use by**: Procuring Agencies, QGP Compliance Branch - Procurement Investigation Unit, government owned corporations, statutory bodies, special purpose vehicles or the lead spend category.**For submission to**: the Department of Energy and Public Works - Queensland Government Procurement (QGP) Compliance Branch - Strategy and Coordination Unit.The report may contain views and opinions including findings and recommendations, which are those of the [insert Procuring Agency name].The scope of the investigation involved the collection of compelling evidentiary material to primarily determine whether a breach of contract and/or Government policy or regulation has been committed. This report will assist the Procuring Agency to decide whether the matter is a non-compliance under the Mandate/Threshold and is able to be progressed to the Tripartite Procurement Advisory Panel (the Panel). The ‘Procuring Agency non-compliance referral’ section of the report should be completed when referring an alleged non-compliance under the Mandate/Threshold. It comprises all necessary case-specific information to allow progression to the Panel for a recommendation under the policy.This document, along with any attachments, is confidential and should be managed appropriately as per the *Information Privacy Act 2009* (Qld) and other information sharing requirements relevant to the Queensland Government. |
| **Requirements for this section of this report:** |
| [ ]  Identification of contract commitments[ ]  Investigation of the allegation, producing evidence of a breach of the Threshold/legislation/contractual obligation or government policy[ ]  Identification of an alleged non-compliance under the Mandate [ ]  The provision of procedural fairness[ ]  Show cause proceedings[ ]  A determination by the agency the allegation is capable of being progressed |

1.2. Subject of the Investigation

|  |  |
| --- | --- |
| **Subject of investigation:** | Choose an item. |
| **Company name:** |  | **ABN:** |  |
| **ACN:** |  |
| **Contact name:** |  | **Contact number:**  |  |
| **Email:** |  |
| **Postal address:** |  |

[If Principal contractor was selected as ‘Subject of investigation’, leave the table below empty]

|  |  |  |  |
| --- | --- | --- | --- |
| **Principal contractor (PC):** |  | **ABN:** |  |
| **ACN:** |  |
| **Contact name:** |  |
| **Postal address:** |  |

1.3. Contract details (including Service and Maintenance Contracts)

|  |
| --- |
| **Principal Contract**  |
| **Contract parties:** | <Subject of investigation company name and Procuring Agency or Managing Procuring Agency> |
| **Formal instrument of agreement (FIA):** | [ ]  Received [ ]  Not received [ ]  Not applicable |
| **Special conditions of contract:** | [ ]  Received [ ]  Not received |
| **Signed tender form:** | [ ]  Received [ ]  Not received |
| **Letter of acceptance (LOA):** | [ ]  Received [ ]  Not received [ ]  Not applicable |
| **Other:** |  <Specify document name and add details > or [ ]  Not applicable |
| **Date contract executed:** | Click or tap to enter a date. or [ ]  Not applicable |
| **Date LOA/FIA signed:** | Click or tap to enter a date. or [ ]  Not applicable  |

[If the PC is the subject of the investigation, leave below table empty]

|  |
| --- |
| **Subcontract** |
| **Contract parties:** | <Subject of investigation company name and Procuring Agency or Managing Procuring Agency> |
| **Subcontract agreement:** | [ ]  Received [ ]  Not received |
| **Deed Poll:** | [ ]  Received [ ]  Not received |
| **Special conditions of contract:** | [ ]  Received [ ]  Not received  |
| **Other:**  | <Specify document name and add details> Or ☐ Not applicable |
| **Date subcontract signed:** | Click or tap to enter a date. Or ☐ Not applicable |
| **Date Deed Poll signed:** | Click or tap to enter a date. Or [ ]  Not applicable  |

Provide a contract overview and summary to include critical dates and relevant contract clauses. Refer to suggested bullet points as a guide for information that forms part of the contract overview (delete instructions once completed).

|  |
| --- |
| **Contract overview** |
| * *Date tender submitted*
* *Contract sum*
* *Provide detail on the commitment in tender/contract that relates to the alleged breach BPP/LBT or other.*
* *Provide detail on any contract clauses relating to the requirement for record keeping and providing records that relate to the alleged breach to the ‘Principal’*.
 |

1.4. Threshold declaration (Only complete for a breach of the Threshold)

|  |
| --- |
| Select the options that reflect the contractual status of the supplier: |
| [ ]  The alleged conduct relates to a Queensland Government contract [ ]  The alleged conduct did not occur in relation to a Queensland Government contract, and: [ ]  the matter was identified as a result of a procurement or tender process, [ ]  the matter was identified outside of a procurement process. |

### 1.4.1. Declaration of compliance with the Threshold

|  |  |
| --- | --- |
| **Date of supplier Threshold declaration:**  | Click or tap to enter a date. |
| **Was the supplier compliant with the Threshold criteria?** | [ ]  Yes [ ]  No |
| If **‘No’**,which Threshold criteria did the supplier indicate non-compliance with?<Insert criteria from the Threshold the supplier indicated non-compliance with> or [ ]  Not applicable |
| **Did the supplier submit supporting documentation?** | [ ]  Yes [ ]  No<If **‘Yes’**, ensure “Details obtained from source” and “Evidence obtained”, and “Procuring Agency non-compliance referral attachments” reflect these details when appropriate> - delete this instruction |
| **Did the supplier submit a false or misleading declaration?** | [ ]  Yes [ ]  No<If **‘Yes’**, insert a comprehensive explanation of the false or misleading submission, noting references to related evidence and attachments may be required> or [ ]  Not applicable |
| **Other details related to the supplier Threshold declaration submission:** |
| <Insert other details provided by the Procuring Agency> [ ]  Not applicable |

1.5. Alleged non-compliance overview

|  |  |
| --- | --- |
| **How many alleged non-compliances are being referred in this submission?** | <insert # of non-compliances> |

[For collated submissions (more than one non-compliance matter), copy and paste the following table within this Section of the document, ensuring one table is completed per alleged non-compliance – delete text when finished].

|  |
| --- |
| **Alleged non-compliance number 1** |
| **Alleged non-compliance details:**  |   |
| **Is this repeated activity, related to a prior breach of the same contract?** | [ ]  Yes [ ]  No <If **‘Yes’** insert previous non-compliance details, including non-compliance reference number> - delete this instruction |
| **Regulator outcome** |
| **Is a regulator outcome required for this type of breach?** | [ ]  Yes [ ]  No  |
| **Has a regulator outcome been obtained?** | [ ]  Yes [ ]  No [ ]  Not applicable |
| **Summary of regulator outcome:** | ☐ Not applicable or<Insert a comprehensive summary of the applicable regulator’s findings on the alleged non-compliant activity. *Example: Compelling evidence is being used for this investigation and regulator outcome is not required>. –* delete this instruction if not applicable*>* |
| **Alleged non-compliance number 2** |
| **Alleged non-compliance details**  |   |
| **Is this repeated activity, related to a prior breach of the same contract?** | [ ]  Yes [ ]  No <If **‘Yes’**, insert previous non-compliance details, including non-compliance reference number> - delete this instruction |
| **Regulator outcome** |
| **Is a regulator outcome required for this type of breach?** | [ ]  Yes [ ]  No  |
| **Has a regulator outcome been obtained?** | [ ]  Yes [ ]  No [ ]  Not applicable |
| **Summary of regulator outcome:** | ☐ Not applicable or<Insert a comprehensive summary of the applicable regulator’s findings on the alleged non-compliant activity. *Example: This non-compliance has been referred to Workplace Health and Safety Queensland. A regulator outcome has not been received therefore this non-compliance is not being progressed for consideration at this time>. –* delete this instruction if not applicable |

1.6. Investigation details

Outline non-compliance summary and investigation details using the below table.

|  |
| --- |
| **Investigation**  |
| **Request for Information (RFI)** |
| **Date RFI was issued:** | Click or tap to enter a date. |
| **Date RFI response due:** | Click or tap to enter a date. |
| **Date RFI response received:** | Click or tap to enter a date. OR[ ]  No response<If no response was received, add details of evidence to confirm the RFI was received and acknowledged by the supplier>  |
| **Summary of supplier’s response:** |
| <Insert a summary of supplier’s response> |
| **Show Cause Notice**  |
| **Date Show Cause Notice was issued:** | Click or tap to enter a date. |
| **Date Show Cause Notice response due:** | Click or tap to enter a date. |
| **Date Show Cause Notice response received:** | Click or tap to enter a date. Or[ ]  No response |
| **Summary of the supplier’s response:** |
| <Insert a comprehensive summary of the supplier’s response to the Show Cause Notice, including details outlining any remedial actions performed by the supplier> or [ ]  Not applicable> |

[For collated submissions (more than one non-compliance matter), copy and paste the following table within this Section of the document, ensuring one table is completed per alleged non-compliance].

|  |
| --- |
| **Non-compliance 1** |
| <Insert details of non-compliance 1 expand on the details referring to relevant enterprise agreements, awards, legislation and policy. Discuss the evidence relied upon to substantiate the allegation of the non-compliance of legislation and/or government policy> |
| **Is there sufficient evidence to substantiate non-compliance 1?** | [ ]  Yes [ ]  No<if no provide details below – delete this instruction> |
| **Is non-compliance 1 capable of being progressed to the Panel?** | ☐ Yes ☐ No <if no provide details below – delete this instruction>Example: This non-compliance requires a regulator outcome to be capable of being progressed to the Panel |
| **Proposed Mandate category:** | Choose an item.<Insert proposed type of non-compliance that corresponds to the appropriate category of non-compliance under the Mandate’. Example: ‘10. Ethical Supplier Threshold – Supplier non-compliances the Threshold requirements: - Paid employees wages below those provided for in an applicable modern award’> |
| **Has non-compliance 1 been referred to the relevant regulator?** | ☐ Yes ☐ No ☐ Not applicable PIU/Procuring Agency referred allegation of [type of allegation] to [regulator name].  | **Date of referral:** | Click or tap to enter a date.☐ Not applicable |

|  |
| --- |
| **Non-compliance 2** |
| <Insert details of non-compliance 2 expand on the details referring to relevant enterprise agreements, awards, legislation and policy. Discuss the evidence relied upon to substantiate the allegation of the non-compliance of legislation and/or government policy> |
| **Is there sufficient evidence to substantiate non-compliance 2?** | [ ]  Yes [ ]  No<if no provide details below – delete this instruction> |
| **Is non-compliance 2 capable of being progressed to the Panel?** | ☐ Yes ☐ No <if **‘No’**, provide details below – delete this instruction>For example: *This non-compliance requires a regulator outcome to be capable of being progressed to the Panel.* |
| **Proposed Mandate category:** | Choose an item.< Insert proposed type of non-compliance that corresponds to the appropriate category of non-compliance under the Mandate’. Example: ‘10. Ethical Supplier Threshold – Supplier non-compliances the Threshold requirements: - Paid employees wages below those provided for in an applicable modern award’> |
| **Has non-compliance 2 been referred to the relevant regulator?** | ☐ Yes ☐ No ☐ Not applicable PIU/Procuring Agency referred allegation of [type of allegation] to [regulator name].  | **Date of referral:** | Click or tap to enter a date.☐ Not applicable |

1.7. Investigation findings

Noting this report is due to the QGP Compliance Branch - Strategy and Coordination Unit within five (5) business days of the investigation’s determination date.

|  |
| --- |
| **Investigation determination** |
| <Insert details of the determination for each/all non-compliances and provide a view if the actions that contributed to the non-compliance(s) was negligent and/or deliberate and /or repeated>  |
| **Supplier behaviour** | Choose an item. |
| **Investigating officer name:** |  |
| **Investigating officer position:** |  |
| **Date of investigation determination:** | Click or tap to enter a date. |

1.8. Penalty risk profile & Other details

This section of the report requires completion by the Procuring Agency Chief Procurement Officer (or organisation equivalent).

|  |
| --- |
| **Penalty risk profile**  |
| **Would sanctioning this supplier present a risk to your business area?** |
| [ ]  Yes [ ]  No | <Procuring Agency to include any exposed markets caused from a possible sanction and if this risk is identified, provide a summary of this impact> |
| **Other details**  |
| **Is there any other information you want the Tripartite Procurement Advisory Panel or Decision Maker to consider?** |
| [ ]  Yes [ ]  No  | <If ‘Yes’, provide details here:> |
| **Have any contract management actions been taken in relation to the breach?** | ☐ Yes ☐ Not applicable<If **‘Yes’**, insert details of contract management actions> - delete this instruction |
| **Is there any other information you would like to submit with this allegation?** | <Insert any other details relevant to the breach conduct, supplier, market etc., or not applicable> <Include any exposed markets caused from a possible sanction and if this risk is identified, provide a summary of this impact> |

1.9. Supporting evidence

Identify all attachments included with the ‘Procuring Agency/ QGP Compliance Branch-Procurement Investigation Unit non-compliance referral’ section.

|  |  |
| --- | --- |
| **Attachment No.** | **Attachment name**  |
| **Item 1** | <Organise any contract documentation in a separate folder, name the folder ‘1. Contract Documentation’ and reference here. Each folder will be compressed and sent as an attachment to this report> |
| **Item 2** | <Organise the RFI and any response received in a separate folder, name the folder ‘2. Request for Information and Response’ and reference here. Each folder will be compressed and sent as an attachment to this report> |
| **Item 3** | <Organise the Show Cause Notice and any response received in a separate folder, name the folder ‘3. Show Cause Notice and Response’ and reference here. Each folder will be compressed and sent as an attachment to this report> |
| **Item 4** | <Organise evidence for each non-compliance in a separate folder, name the folder ‘4. Evidence – Non-compliance 1’ and reference here. Each folder will be compressed and sent as an attachment to this report> |

#

1.10. Sign-off

[Leave below table empty if Procuring Agency conducted the investigation].

|  |
| --- |
| The QGP Compliance Branch has considered <insert subject of investigation’s> response to the Show Cause Notice and the decision(s) made in this report and has determined the Choose an item. Choose an item. of being progressed to the Tripartite Procurement Advisory Panel. |
| **Details of signee QGP Compliance Branch:** | <Insert name of signee><Manager/Director QGP Compliance Branch>, <Insert department name> |
| **Signature:** |  | **Date of signing:** | Click or tap to enter a date. |

[The section below should be signed-off by the Procuring Agency’s representative].

|  |
| --- |
| The Procuring Agency has considered <insert subject of investigation’s> response to the Show Cause Notice and the decision made in this report and has determined the Choose an item. Choose an item. of being progressed to the *Tripartite Procurement Advisory Panel.* |
| **Details of signee Procuring Agency’s representative:** | <insert name of signee>, <Chief Procurement Officer>, <insert department name> |
| **Signature:** |  | **Date of signing:** | Click or tap to enter a date. |

# 2. QGP Compliance Branch - Strategy and Coordination Unit Non-compliance Referral

**Subsections 2.1 – 2.7** are completed by the Strategy and Coordination Unit, QGP Compliance Branch within the Department of Energy and Public Works prior to referring the Panel to sign-off

2.1. Purpose

|  |
| --- |
| **For use by**: the Strategy and Coordination Unit, QGP Compliance Branch within the Department of Energy and Public Works when completing the Quality Assurance within the non-compliance referral process.**For submission to**: the Chair of the Tripartite Procurement Advisory Panel (Chair of the Panel).The ‘QGP Compliance Branch non-compliance referral’ section of the report should be completed when progressing an alleged non-compliance under the Mandate. It comprises all necessary case-specific information to inform a recommendation that is to be made under the policy.This document, along with any attachments, is confidential and should be managed appropriately as per the *Information Privacy Act 2009 (Qld)* and other information sharing requirements relevant to the Queensland Government. |
| **Requirements for this section of report:** |
| [ ]  **Referral of an alleged non-compliance under the Mandate** from a Procuring Agency, QGP Compliance Branch - Procurement Investigation Unit, government-owned corporation, statutory body, special purpose vehicle or the lead spend category[ ]  **Successful completion of the alleged non-compliance submission quality assurance process** performed by the Strategy Coordination Unit. Please note this information should be captured in a separate Quality Assurance document prior to submitting to the Panel[ ]  **Extenuating circumstances proceedings** (e.g., issuing of Extenuating Circumstances Notice process)[ ]  **Supplier compliance records** (e.g., issuing of Extenuating Circumstances Notice process) |

2.2. Quality Assurance check

The Quality Assurance (QA) check conducted by the QGP Compliance Branch must be satisfied prior to referring this report to the Panel.

|  |  |
| --- | --- |
| **Referral received:** | Click or tap to enter a date. |
| **Has the QA assurance check been satisfied?**  | [ ]  Yes [ ]  No [ ]  Not required  |
| **If the answer of the above question is ‘No’, provide further details:** |
| <Insert a comprehensive summary of the issue including details outlining any actions performed by QGP Compliance Branch> |
| **Is the matter capable to be progressed?** | [ ]  Yes [ ]  No  |

2.3. Extenuating circumstances proceedings

|  |  |
| --- | --- |
| **Date Extenuating Circumstances Notice was issued:** | Click or tap to enter a date. |
| **Date Extenuating Circumstances Notice due date:** | Click or tap to enter a date. |
| **Date Extenuating Circumstances Notice response received** | Click or tap to enter a date. or[ ]  No response |
| **Summary of supplier’s response:** |
| <Insert a summary of supplier’s response to the Extenuating Circumstances Notice > |

2.4. Policy precedents

This record reflects decisions made under the Ethical Supplier Mandate.

|  |  |
| --- | --- |
| **Are any previous policy decisions relevant to this submission?** | [ ]  Yes [ ]  No |
| **Ref no.** | **Non-compliance details** | **Non-compliance outcome** | **Decision date** | **Item #** |
|  | <Insert short summary of non-compliance details> | <X demerits, and X sanction> | Click or tap to enter a date. |  |

2.5. Supplier compliance record

This record reflects decisions made under the Mandate about the supplier.

|  |  |
| --- | --- |
| **Are there any previous policy decisions about the supplier made under the Mandate or the Threshold?** | [ ]  Yes [ ]  No |
| **Ref no.** | **Non-compliance details** | **Non-compliance outcome** | **Decision date** | **Item #** |
|  | <Insert short summary of non-compliance details> | <X demerits, and X sanction> | Click or tap to enter a date. |  |

2.6. Engagement record

|  |  |
| --- | --- |
| **Does the supplier have active contracts with Queensland Government?** | [ ]  Yes [ ]  No |
| **Does the supplier sit on any Queensland Government standing offer arrangements?** | [ ]  Yes [ ]  No |
| **Summary of supplier engagement history with the Queensland Government:** |
| <insert date of contract, spend agency, spend value> |

2.7. QGP Compliance Branch attachments

Identify all attachments included with the ‘QGP Compliance Branch - Strategy and Coordination Unit non-compliance referral’. Pre-filled attachment numbers and subsequent attachment cover pages should be updated to reflect the needs of the submission. Attachments and specific ‘Item numbers’ are to be referenced throughout the document where prompted.

Please ensure attachment item numbers are in sequence.

|  |  |
| --- | --- |
| **Attachment No.** | **Attachment name**  |
| Item X | <Insert document name i.e., Extenuating circumstances response > |
| Item X | <Insert document name i.e., Policy precedents (QGP Compliance Branch non-compliance report – REF: ES-00001)> |
| Item X | <Policy precedents> |
| Item X | <Supplier engagement record with the Queensland Government> |

# 3. Tripartite Procurement Advisory Panel Non-compliance Recommendation

**Subsections 3.1 – 3.10** are completed by the the Strategy and Coordination Unit QGP Compliance Branch within the Department of Energy and Public Works prior to referring the Panel recommendation to the Decision Maker

3.1 Purpose

|  |
| --- |
| **For use by**: the Strategy and Coordination Unit, QGP Compliance Branch within the Department of Energy and Public Works, on behalf of the Tripartite Procurement Advisory Panel (the Panel).**For submission to**: the appropriate non-compliance Decision Maker.The ‘Tripartite Procurement Advisory Panel non-compliance recommendation’ section of this report should be completed when a recommendation is formed by the Panel on an alleged non-compliance under the Mandate. It captures the deliberations underpinning the Panel’s recommendation, including the recommended penalty (if any) is deemed appropriate under the policy.This document, along with any attachments, is confidential and should be managed appropriately as per the *Information Privacy Act 2009 (Qld)* and other information sharing requirements relevant to the Queensland Government. |
| **Requirements for this section of report:** |
| [ ]  **Referral of an alleged non-compliance under the Mandate** from a Procuring Agency, QGP Compliance Branch - Procurement Investigation Unit, government-owned corporation, statutory body or special purpose vehicle[ ]  **Successful arranging/coordinating the Panel’s meeting**[ ]  **Show cause/Extenuating circumstances proceedings**[ ]  **A Panel recommendation** |

3.2. Meeting details

|  |  |  |  |
| --- | --- | --- | --- |
| **Meeting ID number:** | <Insert number> | **Meeting date:** | Click or tap to enter a date. |
| **Attendees and agreement:** |
| **Chair name:** | <Insert full name> | **Email:** |  |
| **In agreement:** | [ ]  Yes [ ]  No  |
| **Member 1 name:** | <Insert full name> | **Email:** |  |
| **In agreement:** | [ ]  Yes [ ]  No |
| **Member 2 name:** | <Insert full name> | **Email:** |  |
| **In agreement:** | [ ]  Yes [ ]  No |

3.3. Declared conflicts of interest

|  |  |
| --- | --- |
| **Does the Panel have a conflict of interest with this penalty consideration?** | [ ]  Yes [ ]  No |
| **Panel member** | **Nature of conflict** | **Declaration date** |
| <Insert full name> | <Detail the nature of the conflict> | Click or tap to enter a date. |
| If **‘Yes’**, how is the conflict being managed? |
| <Insert details of conflict management in line with Terms of Reference> |

3.4. Show cause / Extenuating circumstances proceedings

|  |  |
| --- | --- |
| **Did the supplier accept that the alleged activity occurred?**  | [ ]  Yes [ ]  No |
| **Did the supplier conduct any remedial actions?** | [ ]  Yes [ ]  No |
| **Summary of key areas of the supplier’s response to the Show Cause Notice considered by the Panel when forming this recommendation**: |
| <Insert a comprehensive summary of the Panel’s consideration of the supplier’s response to the Show Cause Notice, including details outlining any remedial actions performed by the supplier> or[ ]  Not applicable  |
| **Summary of key areas of the supplier’s response to the Extenuating Circumstances Notice considered by the Panel when forming this recommendation:** |
| <Insert a comprehensive summary of the Panel’s consideration of the supplier’s response to the Extenuating Circumstances Notice> or[ ] Not applicable |

3.5. Penalty risk profile

|  |
| --- |
| **Risks considered by the Panel:** |
| <Insert any risks considered by the Panel> |

3.6 Non-compliance case summary

This section should be completed by the Strategy and Coordination Unit, QGP Compliance Unit within the Department of Energy and Public Works during the QA process to create a non-compliance summary and chronology of events as a quick reference guide for the Panel.

|  |
| --- |
| **Breach summary:** |
| **Date contract executed** | Click or tap to enter a date. |
| **Date investigation commenced** | Click or tap to enter a date. |
| **Investigation type** | <insert authority i.e., BPP/training> |
| **Project name** | <insert project name / reference / or NA> |
| **Date Show Cause issued** | Click or tap to enter a date. |
| **Date of Show Cause response** | Click or tap to enter a date. |
| **Applicable policy** | <insert policy i.e., 2019 / 2021 Mandate> |
| **Queensland Government spend** | <insert spend> |
| **Date Extenuating Circumstances Notice sent** | Click or tap to enter a date. |
| **Date Extenuating Circumstances Notice response received** | Click or tap to enter a date. |
| **Date investigation closed** | Click or tap to enter a date. |
| **Other** | <other> |

3.7. Advice received on behalf of the Panel

|  |  |
| --- | --- |
| **Did the Panel seek external advice ahead of forming a recommendation?** | [ ]  Yes [ ]  No |
| **Advice topic** | **Name and position of advice author** | **Summary of advice** | **Item #** |
| <Insert subject of advice> | <Insert name, position and organisation of author of advice> | <Insert summary of advice provided> |  |

3.8. The Panel recommendation

### 3.8.1. Demerit recommendation

All outcomes provided in this subsection reflect the experience and expert advice of the Panel. They do not represent a final determination. For collated submissions (more than one non-compliance matter), copy and paste the following table within this section of the document, ensuring one table is completed per alleged non-compliance.

|  |
| --- |
| **Alleged non-compliance number: 1** |
| **Is this allegation a perceived non-compliance under the Mandate**  | [ ]  Yes, 2019 Mandate[ ]  Yes, 2021 Mandate[ ]  No |
| **Type of non-compliance:** | Choose an item. |
| **Is this allegation negligent, and/or deliberate, and/or repeated?** | [ ]  Yes [ ]  No |
| **Supplier behaviour** | Choose an item. |
| **Category severity:** | Choose an item. |
| **Demerit recommendation:** | <X> demerits should be issued to the supplier in relation to this non-compliance |
| **Other compliance recommendations:** | <Insert other recommendations provided by the Panel> |
| **Recommendation explanation:** | <Insert explanation of how and why the Panel formed this recommendation> |

### 3.8.2 Panel breakdown of demerit recommendation

|  |
| --- |
| **The Panel’s summary of the alleged non-compliance:** |
| <Insert a summary of the Panel’s understanding and definition of the alleged non-compliance> |
| **A summary of the evidence relied upon by the Panel when forming this recommendation:** |
| <Insert summary and relevance of the evidence relied on by the Panel when forming this recommendation> |
| **Summary of the Panel’s reasoning in forming this recommendation:** |
| <Insert summary of the Panel’s reasoning in forming this recommendation, including any industry specific expertise taken into consideration> |
| **Total number of demerits recommended:** | <X> demerits |
| **Would issuing the total recommended demerits trigger a sanction consideration?** | [ ]  Yes [ ]  No |

### 3.8.3 Sanction

[Leave this subsection empty if not required]

|  |  |
| --- | --- |
| **Should the supplier be issued a sanction?** | ☐ Yes ☐ No |
| **Sanction recommendation:** | **A** <X> **month sanction** making the supplier ineligible for contract award should be issued in relation to this non-compliance(s) |
| **Sanction provisions:** | * Suspending the supplier’s prequalification for: <insert timeframe>
* Suspending the supplier from any Queensland Government panel or contracting framework for: <insert timeframe>]
* Precluding the supplier’s existing contract from being extended.

[ ]  A suspended sanction penalty, pending successful implementation of any recommended corrective actions. |
| **Suspended sanction:** | <If selected above, insert all details related to the suspended sanction, including the length of the suspension, the required remedial actions of the supplier, deadlines etc., or>[ ]  Not applicable  |

### 3.8.4. Panel breakdown of sanction recommendation

[Leave this subsection empty if not required]

|  |
| --- |
| **The Panel’s summary of the non-compliance(s) in scope of this sanction recommendation:** |
| <Insert a summary of the Panel’s understanding and definition of the breach(es) considered when forming this sanction recommendation> |
| **Summary of the Panel’s reasoning in forming this recommendation:** |
| <Insert summary of the Panel’s reasoning in forming this recommendation, including any industry specific expertise taken into consideration> |

3.9. Panel non-compliance recommendation attachments

Identify all attachments included with this report. Pre-filled attachment numbers and subsequent attachment cover pages should be updated to reflect the needs of the submission. Attachments and specific ‘Item numbers’ are to be referenced throughout the document where prompted.

Please ensure attachment and item numbers are sequential to the previous attachments/items.

|  |  |
| --- | --- |
| **Attachment No.** | **Attachment name** |
| Item X | <Insert document name i.e., Legal advice on supplier conduct> |
| Item X | <Advice received on behalf of the Panel> |
| Item X | <Insert document name, i.e. source complaint, previous related non-compliance submission> |

3.10. Sign-off

This section of the report should be approved and signed by the Chair of the Panel.

|  |  |
| --- | --- |
| **Details of signee:** | <Insert name of signee>, Chair, Tripartite Procurement Advisory Panel |
| **Signature:** |  | **Date of signing:** | Click or tap to enter a date. |

# 4. Decision Maker Non-compliance Outcome

**Sections 4.1 – 4.7** are completed and executed by Decision Maker (the Director-General (DG) of the Procuring Agency, or the government-owned corporation, statutory body or special purpose vehicle in ownership of the contract. The report must then be returned to the Strategy and Coordination Unit QGP Compliance Branch within the Department of Energy and Public Works

4.1. Purpose

|  |
| --- |
| **For use by**: the appropriate non-compliance Decision Maker (the Director-General (DG) of the Procuring Agency, or the government-owned corporation, statutory body or special purpose vehicle in ownership of the contract).**For submission to**: the Strategy and Coordination Unit, QGP Compliance Branch within the Department of Energy and Public Works.This section should be completed when an outcome is formed by the Decision Maker on an alleged non-compliance under the Mandate/Threshold. It captures the decision, including the penalty deemed appropriate under the policy (if any).This document, along with any attachments, is confidential and should be managed appropriately as per the *Information Privacy Act 2009 (Qld)* and other information sharing requirements relevant to the Queensland Government. |
| **Requirements for this section of report:** |
| [ ]  **Referral of an alleged non-compliance under the Mandate** from a Procuring Agency, government-owned corporation, statutory body, special purpose vehicle or the lead spend category.[ ]  **Successful completion of the alleged non-compliance submission quality assurance process** performed by the Strategy and Coordination Unit, QGP Compliance Branch within the Department of Energy and Public Works.[ ]  **Extenuating Circumstances proceedings**.[ ]  **Supplier compliance records**[ ]  **A Panel recommendation**.[ ]  **A non-compliance determination by an appropriate Decision Maker** |

4.2. Extenuating Circumstances proceedings

|  |
| --- |
| **Summary of key areas of the supplier’s response to the Extenuating Circumstances Notice considered by the Decision Maker when forming this decision:** |
| <Insert a comprehensive summary of the Decision Maker’s consideration of the supplier’s response to the Extenuating Circumstances Notice, or>[ ] Not applicable |

4.3. Advice received on behalf of the Decision Maker for a demerit decision

|  |  |
| --- | --- |
| **Did the Decision Maker seek external advice ahead of forming a decision?** | [ ]  Yes [ ]  No |
| **Advice topic** | **Name and position of advice author** | **Summary of advice** | **Item #** |
| <Insert subject of advice> | <Insert name, position and organisation of author of advice> | <Insert summary of advice provided> | As per subsection 3.6 |

4.4. The Decision Maker’s decision

All outcomes provided in this section reflect the Decision Maker’s decision.

### 4.4.1. The demerit decision

|  |  |
| --- | --- |
| **Decision date:** | Click or tap to enter a date. |

[For collated submissions (more than one non-compliance matter), copy and paste the following table within this subsection of the document, ensuring one table is completed per alleged non-compliance.]

|  |
| --- |
| **Alleged non-compliance number: 1** |
| **Is this allegation a non-compliance under the Mandate** | [ ]  Yes [ ]  No |
| **Type of non-compliance:** | Choose an item. |
| **Category severity:** | Choose an item. |
| **Demerit decision:** | <X> demerits should be issued to the supplier in relation to this non-compliance |
| **Other compliance decisions:** | <Insert other recommendations provided by the Panel> |

### 4.4.2. Decision Maker’s breakdown of the demerit decision

|  |
| --- |
| **The Decision Maker’s summary of the non-compliance:** |
| <Insert a summary of the Decision Maker’s definition of the non-compliance> |
| **A summary of the evidence relied on by the Decision Maker when forming this decision:** |
| <Insert summary and relevance of the evidence relied on by the Decision Maker when forming this decision> |
| **Summary of the Decision Maker’s reasoning in forming this decision:** |
| <Insert summary of the Decision Maker’s reasoning in forming this decision> |

|  |  |
| --- | --- |
| **Total number of demerits issued:** | <X> demerits |
| **Does this incursion of demerits trigger a sanction consideration?**  | [ ]  Yes [ ]  No |

### 4.4.3. The sanction decision

[Leave this subsection empty if not required.]

|  |  |
| --- | --- |
| **Decision date:** | Click or tap to enter a date. |

[Where multiple non-compliances are in scope of the sanction decision complete the following table and add new rows If required]

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Non-compliance REF#** | **Short non-compliance overview** | **Decision date:** |
| 1 |  | <Insert short non-compliance overview> | Click or tap to enter a date. |
| 2 |  | <Insert short non-compliance overview> | Click or tap to enter a date. |

|  |  |
| --- | --- |
| **Will the supplier be issued a sanction?** | ☐ Yes ☐ No |
| **Sanction decision:** | **A** <X> **month sanction** making the supplier ineligible for contract award will be issued in relation to this non-compliance |
| **Sanction provisions:** | * Suspending the supplier’s prequalification for <insert timeframe>
* Suspending the supplier from any Queensland Government panel or contracting framework for <insert timeframe>]
* Precluding the supplier’s existing contract from being extended.

[ ]  A suspended sanction penalty, pending successful implementation of any recommended corrective actions. |
| **Suspended sanction:** | <If selected above, insert all details related to the suspended sanction, including the length of the suspension, the required remedial actions of the supplier, deadlines etc.,> or[ ]  Not applicable  |

### 4.4.4. Decision Maker’s breakdown of the sanction decision

[Leave this subsection empty if not required]

|  |
| --- |
| **The Decision Maker’s summary of the non-compliance(s) in scope of this sanction decision:** |
| <Insert a summary of the Decision Maker’s definition of the breach(es) considered when forming this sanction decision> |

|  |
| --- |
| **Summary of the Decision Maker’s reasoning in forming this sanction decision:** |
| <Insert summary of the Decision Maker’s reasoning in forming this sanction decision> |

### 4.4.5. Proposed Sanction Notice process

[Leave this subsection empty if not required]

|  |  |
| --- | --- |
| **Date Proposed Sanction Notice was issued:** | Click or tap to enter a date. |
| **Date Proposed Sanction Notice response received:** | Click or tap to enter a date.or [ ]  Not applicable |
| **Summary of the supplier’s response:** |
| <Insert a comprehensive summary of the supplier’s response to the Proposed Sanction Notice, or>[ ]  Not applicable  |
| **Summary of key areas of the supplier’s response to the Proposed Sanction Notice considered by the Decision Maker when forming this sanction decision:** |
| <Insert a comprehensive summary of the Decision Maker’s consideration of the supplier’s response to the Extenuating Circumstances Notice, or>[ ]  Not applicable  |

### 4.4.6.Whole of government risk assessment including sanction consideration [leave this subsection empty if not required]

|  |  |
| --- | --- |
| **Did HOPN identify any risks to government if the supplier is sanctioned?** | [ ]  Yes [ ]  No |
| **Summary of the risks considered by the Decision Maker when forming this sanction decision:** |
| <Insert a comprehensive summary of the Decision Maker’s consideration of the risks identified by HOPN> or[ ] Not applicable |

4.5. Panel alignment

|  |  |
| --- | --- |
| **Does the decision align to the recommendation of the Panel?** | [ ]  Yes [ ]  No |

4.6. Decision Maker’s non-compliance outcome attachments

Identify all attachments included with this report. Pre-filled attachment numbers and subsequent attachment cover pages should be updated to reflect the needs of the submission. Attachments and specific ‘Item numbers’ are to be referenced throughout the document where prompted.

Please ensure attachment item numbers are in sequence.

|  |  |
| --- | --- |
| **Attachment No.** | **Attachment name** |
| Item X | <Insert document name i.e., Advice received on behalf of the Decision Maker for a demerit decision> |
| Item X | <Insert document name i.e., Proposed Sanction Notice> |
| Item X | <Insert document name, i.e., Supplier Proposed Sanction Notice response> |
| Item X | <Insert document name i.e., Advice received on behalf of the Decision Maker for a sanction decision> |

4.7. Sign-off

This section of the report should be approved and signed by the Decision Maker.

|  |  |
| --- | --- |
| **Details of signee:** | <Insert name of signee>, Director General, <insert department name> |
| **Signature:** |  | **Date of signing:** | Click or tap to enter a date. |