

Identifying the signs of contractors under financial or managerial stress

Introduction

The Queensland Government spends several billions of dollars each year on the procurement of new building assets. If a contractor defaults (including through liquidation or bankruptcy) on a government building project it can have severe repercussions for employees, trade contractors, suppliers, the industry and for Government.

Subcontractors or suppliers that remain unpaid (either in full or in part) may also be affected, and in some cases may go into liquidation or bankruptcy, as a result of non-payment by the head contractor.

Requirements for departments

The *Capital Works Management Framework* is the Government's key policy for managing risks in project implementation associated with building construction and maintenance and applies to all government departments.

In accordance with policy requirement 14 of the framework, departments are required to keep the PQC Registrar, which is a role within the Department of Housing and Public Works that oversees the operation of the Prequalification (PQC) System¹, informed of any indication that a contractor may be experiencing financial or managerial stress.

Departmental officers, or superintendent's representatives need to advise the PQC Registrar as soon as possible if they become aware that a contractor is involved in a contractual, legal or administrative action, or is demonstrating a pattern of behaviour that may reasonably be considered to indicate the contractor may be experiencing financial or managerial stress.

¹ The PQC System comprises a central register (PQC Database) of prequalified building contractors and consultants for use by government departments, application forms for contractors and consultants, and a series of guidelines which outline procedural requirements for departments and industry.

Capital Works Management Framework - policy advice note

The PQC Registrar can be contacted on 1800 072 621 or at PQCRegistrar@hpw.qld.gov.au.

Typical signs of contractor financial or managerial stress

Departmental officers, or superintendent's representatives should notify the PQC Registrar if they encounter any of the following signs:

- the contractor fails to rectify, or is slow to rectify, defects and outstanding works
- subcontractors fail to return to the site or complain about missing or late payments
- scaffolding or building materials are being removed from the site
- the contractor changes subcontractors part-way through the contract
- the quality of the finished products being presented for inspection decreases
- progress of work on site slows, key milestones are missed, or delivery of materials is late
- the contractor's employees may be less enthusiastic about their work or express fears regarding job security
- the contractor is requesting payments not yet due, submitting requests for reduced payment terms or more regular claim cycles (e.g. fortnightly payments), or requesting payment for unfixed goods or goods off-site
- the contractor is negotiating with suppliers for extended trading terms (longer than 30-60 days)
- perhaps most noticeably, site gates and sheds are locked, with no workers on site, on days when work should be proceeding.

Once informed, the PQC Registrar can assess whether further action should be taken against a contractor under the PQC System. This may include:

- the PQC Registrar requesting that a performance report on the contractor be prepared by the superintendent's representative (if one has not already been completed);
- the contractor being requested to provide the PQC Registrar with information in relation to the identified issues; or
- the PQC Registrar instigating a formal review and sanctions process² in relation to the contractor's continued registration on the PQC Database.

The PQC Registrar may also place a "seek advice" flag against the contractor's registration on the PQC Database. A "seek advice" flag alerts departmental officers that there is an issue/concern relating to the contractor and that they should contact the PQC Registrar to obtain details, before issuing any invitation to tender or awarding any contract to the contractor.

Tender activity as a sign of contractor financial or managerial stress

Increased tender activity, or substantially discounted tender prices (compared to either the tender estimate or prices submitted by other tenderers), can also indicate that a contractor may be experiencing financial or managerial stress. Financially distressed contractors may be seeking to maintain cashflow by securing multiple contracts.

² In accordance with the *Contractor PQC Review and Sanctions Process* guideline

Capital Works Management Framework - policy advice note

The PQC Registrar regularly monitors contractor tender activity as recorded on the PQC Database. Where contractors are considered to be tendering on a more frequent than usual basis, a “seek advice” flag is placed against those contractors on the PQC Database.

Addressing the signs of suspected contractor financial or managerial stress

While it is a requirement under the *Capital Works Management Framework* to promptly inform the PQC Registrar of any signs of contractor financial or managerial stress, it is equally important that officers responsible for managing the contract (e.g. superintendent’s representative / superintendent) take **appropriate action under the contract** to address the issues. For example, if progress on site is slow, it is reasonable to expect that this issue be addressed through and documented in:

- any site meeting minutes
- a site direction and/or a letter to the contractor
- a rate of progress notice under the contract.

Similarly, quality of work issues could reasonably be addressed through a direction to rectify, a variation to the contract, or through inclusion in a defects list.

For further information

PQC Registrar

Building Contract Management
Asset Management Policy and Strategy
Department of Housing and Public Works
GPO Box 2457
Brisbane QLD 4001

Telephone: 1800 072 621

Email: PQCRegistrar@hpw.qld.gov.au

Web: www.hpw.qld.gov.au

April 2019© The State of Queensland
(Department of Housing and Public Works)