

BUY

Queensland

Information for
Government Suppliers:
Ethical Supplier Mandate



The Queensland Government is committed to engaging suppliers who deliver genuine, quality, secure ongoing jobs with fair pay and safe working conditions for Queenslanders.

This is achieved through the *Buy Queensland* approach, which emphasises the state's responsibility in maximising social, economic and environmental benefits for Queenslanders when it comes to government procurement.

Ethical Supplier Mandate

The *Buy Queensland* approach has been strengthened with the introduction of an Ethical Supplier Mandate.

The Mandate will benefit suppliers, workers and the broader Queensland community by:

- Ensuring suppliers are treated fairly and not exposed to undercutting and unjust competition
- Making Queensland workplaces fairer and safer
- Ensuring that Queensland taxpayers' money is used to build the local economy and support jobs.

The Mandate imposes no additional burden on ethical suppliers.

Where an instance of non-compliance has been proven, demerits will be issued to the supplier in breach. Demerits will be determined on a case-by-case basis, reflecting a sliding-scale of 2 to 10 demerits for minor, moderate or major non-compliance.

Demerits will only be issued for actions that occurred and on contracts entered into after the start of the Mandate and may not be applied retrospectively. Contracts for procurement covered by the Mandate will contain new provisions reflecting this.

The accumulation of 20 or more demerit points will be addressed through a 12-month suspension (sanction) from tendering or quoting with government. Where a supplier is sanctioned and has an existing contract with government, extension options under that contract will not be exercised.

There are 4 key points where suppliers are afforded procedural fairness throughout the process.

The Mandate complements the *Best Practice Principles*, which will continue to apply to major and declared projects.

Ethical Supplier Threshold

The Queensland Government has strengthened the *Buy Queensland* approach with an Ethical Supplier Threshold, as part of its response to Report No. 9 of the 56th Parliament Education, Employment and Small Business Committee, *A fair day's pay for a fair day's work?: Exposing the true cost of wage theft in Queensland*.

The Threshold expresses the wage and entitlement standards expected of suppliers who want to do business with the Queensland Government. Meeting the Threshold is a precondition for supply. The Threshold applies to all suppliers to the Queensland Government, including government owned corporations (GOCs), statutory bodies and special purpose vehicles.

Suppliers found in breach of the Ethical Supplier Threshold will have, in terms of 1 or more of the following:

- 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*
- 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
- 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 ABNs 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
- 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
- Paid employees wages below those provided for in an applicable modern award.



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Frequently Asked Questions

Q What is the Ethical Supplier Mandate?

A The Ethical Supplier Mandate is a mechanism for ensuring the Queensland Government is conducting business with ethical, environmentally and socially responsible suppliers, and for removing unethical behaviour from its supply chain.

Q Why is an Ethical Supplier Mandate needed?

A Allowing non-compliant suppliers to do business with government dilutes opportunities for businesses who can provide significant value to the state, and to the wider Queensland community.

Q What does the government consider to be unethical supplier conduct?

A Unethical conduct relates to a breach in a supplier's predetermined contractual obligations, or actions that contravene policy or laws.

Q How will it work?

A Contractors will be assessed against a sliding scale of non-compliance. Minor breaches will attract 2 demerits, moderate breaches will attract 5 demerits and major breaches will attract 10 demerits. If a supplier accumulates 20 demerits within a 12-month period, they face serious sanctions, including loss of prequalification status and exclusion from future government procurement tendering opportunities. Demerit points will expire one year (12 months) from the date they are issued.

Q Who will decide if a supplier has behaved unethically?

A If a supplier is suspected of breaching its contractual obligation or not abiding by policy, the procuring agency will be responsible for conducting an investigation of each allegation.

An independent public service body, formed by the Chief Advisor – Queensland Government Procurement, will act on behalf of the Queensland Government in making demerit and sanction determinations. This Committee will not have involvement in the investigation process.

Q Does the Mandate apply to subcontractors?

A Yes, the Mandate applies to suppliers and their subcontractors.

To find out more:

- ← Sign up for our newsletter via qld.gov.au/buyqueensland
- ✉ ethicalsupply@hpw.qld.gov.au
- ☎ 1300 10 50 30

Q What will happen to suppliers who behave unethically?

A A determination will be made on a case-by-case basis, dependent on the severity of the non-compliance. Unethical suppliers face serious sanctions, including loss of any prequalification status and exclusion from future government procurement contracts.

Q How many instances of unethical supplier conduct have occurred to date?

A Demerits will only be issued for actions that occur after the start of the Mandate and may not be applied retrospectively.

Q To whom and when will the Ethical Supplier Mandate apply?

- A The Mandate will apply progressively to all suppliers to the Queensland Government:
- budget sector agencies
 - Building, Construction and Maintenance suppliers - 1 August 2019
 - Transport Infrastructure and Services suppliers - 1 October 2019
 - Other categories - in 2020
 - government owned corporations - determined in 2020
 - statutory bodies - determined in 2020
 - special purpose vehicles - determined in 2020.

Q To whom and when will the Ethical Supplier Threshold apply?

A The Threshold applies to suppliers to all Queensland Government departments, statutory bodies, government owned corporations and special purpose vehicles, across all categories, from 1 August 2019.

Q Will suppliers accused of breaching the Mandate or Threshold be given a right of reply?

A Suppliers suspected of unethical behaviour will be offered procedural fairness through the opportunity to respond to all allegations and actions, at multiple stages in the process. An appeals process will also be available to suppliers, where they feel unjustly penalised.

Case Study

A procuring agency calls for tenders. The Invitation to Offer requires tenderers to confirm they meet the Ethical Supplier Threshold, including paying their employees wages that are not below the applicable modern award.

It is brought to the agency's attention that a supplier is paying their employees rates of pay below the applicable modern award.

The agency finds the supplier's offer to be non-conforming and excludes the supplier from the tender process.



www.hpw.qld.gov.au/Procurement/ProcurementStrategy/Policy/Pages/EthicalSupplierMandateThreshold.aspx