

Department of Energy and Public Works

Conditions of Working with QBuild

Suppliers of Goods

December 2020

Important notice:

Notice of Machinery of Government change

As notified in the Queensland Government Gazette on 12 November 2020, QBuild became a business unit of the newly formed **Department of Energy and Public Works** as a result of a machinery-of-government changes implemented following the 2020 election.

What this means

This is a change in name only and will not affect any invitations, arrangement or contracts. The Principal remained the same entity, namely: The State of Queensland.

Please note:

All letters and invoices and other correspondence submitted to QBuild and with reference to the department, must include the new name the **Department of Energy and Public Works** effective immediately.

1. QBuild general business rules of registration for supplier of goods

1.1 Business rules. By registering with QBuild suppliers agree to the following business rules:

- a. All required licenses, certificates and insurance policies shall be maintained current.
- b. Registration applies only to the supply of goods to QBuild.
- c. Registration with QBuild shall be for two years, subject to Clause 6 or agreement to earlier cancellation at the registrant's request.
- d. Suppliers and workers comply with all relevant Acts and legislation.
- e. Suppliers and workers engaged in the supply of goods shall comply with this *Conditions of Working with QBuild – Suppliers of goods* document and any other QBuild conditions that may apply to the specific supply of goods.
- f. All reference to days means calendar days unless stated otherwise.
- g. All claims for payment shall be on a tax invoice complying with GST law (refers to A New Tax System (Goods and Services Tax) Act 1999).
- h. Contracts will not be assigned (novated) without prior written approval of the Principal.
- i. Suppliers and workers maintain the confidentiality of any commercial-in-confidence information obtained about QBuild or its clients.
- j. QBuild reserves the right to change or vary its *Conditions of Working with QBuild – Suppliers of goods* or its *Conditions of contract – Supply of goods* from time to time (current versions are available from www.business.qld.gov.au/qbuild).
- k. The Supplier must ensure that all representations, warranties, declarations, statements, information and documents (“information”) made or provided by the Supplier in connection with applying for registration and working with QBuild are complete, accurate, up-to-date and not misleading in any way. The Supplier must immediately notify QBuild if any information is or becomes incomplete, inaccurate, out-of-date or misleading in any way. Suppliers shall notify QBuild of any changes to registration details by email or written advice.
- l. Cancellation of QBuild registration may result in the cancellation of all current contracts.
- m. Unless otherwise stated, QBuild General Terms and Conditions (Goods) apply to any order or direction for the Supply of Goods issued by QBuild. QBuild General Terms and Conditions (Goods) are available from www.business.qld.gov.au/qbuild.
- n. Details of suppliers and workers may be disclosed to third parties or shared with other public sector agencies (refer to clause 11 – Right to Information and disclosure).
- o. QBuild reserves the right to refuse: any registration application or the approval of any sub-supplier by issue of a notice to that effect to the Applicant at its sole discretion without giving reasons.
- p. All references to \$ or dollars means Australian dollars (AUD).
- q. For Small Businesses, to assist QBuild to pay you in accordance with the Queensland Government On-time Payment Policy, QBuild requires to you first register your details on the On-time Payment Small Business Register <https://www.business.qld.gov.au/starting-business/advice-support/support/small-business/on-time-payment-policy/on-time-policy>. A Small Business has the meaning as defined in clause 3.2.1 in the Queensland Government – On-time Payment Policy

Note: In these conditions, “Worker” has the meaning given it in clause 7 of the *Work Health and Safety Act 2011 (WHS Act)*, and this includes any person who carries out work for the supplier or any sub-supplier.

2. Invoice and payments

2.1 Tax invoice. The following conditions apply to tax invoices submitted to QBuild:

- a. A tax invoice shall contain the following information:
 - Australian Business Number (ABN)

- Australian Company Number (ACN) (where applicable)
- Registered Business Name
- The amount claimed
- GST component
- Description of the goods
- Work order number
- Field release order number (where applicable)
- Purchase order number (where applicable).
- Declare sub-suppliers engaged

- b. Provision of a monthly statement.
- c. Suppliers shall not issue a claim for payment or tax invoice for works or services that have not been performed or supplied.
- d. Failing to submit tax invoices in accordance with contractual time frames will constitute a minor breach under these conditions.

2.2 Payments. The Queensland Government – On-time Payment Policy applies when payments fall under the scope of that policy.

- a. For the supply of goods, payment of a valid tax invoice shall be made within 21 days of the invoice date.
- b. For the purposes of the Queensland Government – On-time Payment Policy, otherwise valid invoices received more than two (2) days after the invoice date shall be treated as in dispute and payment shall be made within 21 days of the receipt date.

A copy of the Queensland Government – On-time Payment Policy is available from <https://www.business.qld.gov.au/starting-business/advice-support/support/small-business/on-time-payment-policy>.

2.3 QBuild preferred payment method. QBuild preferred method of payment is Electronic Funds Transfer (EFT). Suppliers are responsible for timely advice to QBuild of changes to bank or payment details.

2.4 No third-party payments. Intending registrants should note that QBuild will only pay the contracted party and will not pay third parties or any factoring arrangement.

3. Code of conduct

3.1 It is important for QBuild as a business unit of the Department of Energy and Public Works to maintain public confidence in its activities and to safeguard public resources. The reputation of QBuild rests with the ethical conduct of all those who perform work or services for QBuild, including suppliers and others who are not employees of QBuild.

QBuild requires contractors, workers, students and volunteers to comply with the [Queensland Government Supplier Code of Conduct](#) as well as the provisions of the [Code of Conduct for the Queensland Public Service](#).

Key principles and values of the code are:

1. Integrity and impartiality
2. Promoting the public good
3. Commitment to the system of government
4. Accountability and transparency

Suppliers and workers have a responsibility to always conduct and present themselves in a respectful and professional manner consistent with the Queensland Government Supplier Code of Conduct and the Code of Conduct for the Queensland Public Service. QBuild reserves the right, at

its entire discretion, to exclude any worker contravening the Queensland Government Supplier Code of Conduct or the Code of Conduct for the Queensland Public Service without issuing a notice to show cause.

- 3.2 Reporting.** Suppliers are to report suspected official misconduct, fraudulent or corrupt conduct, maladministration, criminal activity, negligent or improper management, or any danger to public health or safety or the environment.
- 3.3 No advertising.** Suppliers shall not make any public announcement or advertisement in any medium in relation to any contracts or arrangements with QBuild, without the consent of QBuild.
- 3.4 Gifts.** Suppliers shall not offer gifts to QBuild staff. If gifts are offered, they shall not be accepted or retained by any QBuild staff.
- 3.5 Collusion.** Suppliers shall not engage in collusive practices as defined in *Queensland Code of Practice for the Building and Construction Industry*.
- 3.6 For services provided at youth detention centres, educational and care premises** the supplier or worker must determine their responsibility for applying and/or holding a blue card in accordance with the *Working with Children (Risk Management and Screening) Act 2000*.

4. Specific conditions for suppliers delivering goods to QBuild work sites and QBuild depots

- 4.1 Insurance cover.** Suppliers delivering goods to QBuild work sites or to QBuild depots shall provide in their application for registration and before commencing any deliveries, certificates of currency as proof of holding the following policies and shall maintain these policies for the duration of any contracts:
 - a. public liability** of \$20 million (unless another amount is specifically stated in contracts, arrangements and agreements); *and*
 - b. worker's compensation** in keeping with statutory requirements or equivalent for self employed persons.
- 4.2 Other insurances.** Other types of insurance cover may be required in specific circumstances.
- 4.3** Notwithstanding 4.1 and 4.2 Suppliers must note that having insurance in accordance with the contract does not limit supplier's liability.
- 4.4** Failing to maintain insurances as required in 2.1 and 2.2 will constitute a significant breach of these conditions.
- 4.5 Responsibility for workers.** Suppliers are responsible for the conduct of all workers and are required to ensure that all their workers adhere to QBuild conditions at all times.
- 4.6 Delivery drivers.** While on site, suppliers and workers shall comply with local traffic and parking regulations.
- 4.7 Security and identification.** While on site, suppliers and workers shall carry identification with name and photo e.g. driver's licence, at all times. On specific sites:
 - a.** QBuild may require identification which shall be clearly visible at all times.
 - b.** QBuild clients may require suppliers and their workers to undertake security checks.
- 4.8 Behaviour on site.** While on site, suppliers and workers shall conduct themselves in a professional manner and inappropriate behaviour shall not be tolerated. Inappropriate behaviour includes (but is not limited to):
 - a.** swearing and the use of offensive and/or inappropriate language
 - b.** displaying offensive visual material e.g. books, magazines, cartoons, clothing and vehicle stickers
 - c.** smoking within the grounds and buildings of any government property

- d. possession or use of alcohol or illegal drugs within the grounds and buildings of any government property
- e. playing of radios
- f. bringing pets on site.

4.9 Interaction with work site clients, users and tenants. While on site, suppliers and workers are to limit conversation with work site clients, users and housing tenants that relates to the deliveries being undertaken.

4.10 Department of Education (DoE) facilities. Suppliers and workers engaged at DoE facilities:

- a. Shall obtain a Work Area Access Permit which will be issued to suppliers either by QBuild (with the QBuild work order) or by the DoE representative in charge of the particular site
- b. Shall not, under any circumstances, enter or use student toilets within DoE facilities, unless they are actually working in student toilets
- c. Shall not communicate in any way with any student, even if the student is known by, or is related to, the suppliers or their workers, except when it is necessary to give a safety direction.

4.11 Client agency requirements. Where other client agencies have specific requirements of suppliers and workers when on site, for example a Drug and Alcohol Policy and any associated business rules, suppliers and workers shall comply as and when advised by QBuild.

4.12 Working in Aboriginal and Torres Strait Islander communities. Queensland's Aboriginal and Torres Strait Islander communities are culturally unique and QBuild is committed to building respectful and mutually beneficial relationships with them. Legislative provisions and cultural protocols may vary from community to community.

- a. **Alcohol restrictions.** Legislation affecting alcohol consumption in some Aboriginal and Torres Strait Islander communities was passed by the Queensland Parliament to support alcohol reforms. This legislation applies to residents and visitors alike. It is essential that suppliers and workers must be aware of restrictions affecting alcohol consumption before entering these Aboriginal and Torres Strait Islander communities.

For more information or a list of communities where this applies visit:

<https://www.datsip.qld.gov.au/programs-initiatives/community-alcohol-limits>.

- b. **Aboriginal and Torres Strait Islander cultural awareness.** It is essential that suppliers and workers who are performing QBuild work in Aboriginal and Torres Strait Islander communities shall attend a local induction with the local council of the Aboriginal and Torres Strait Islander community and adhere to the protocols outlined at the local induction.

QBuild will identify in tender documentation where nominated Aboriginal and Torres Strait Islander communities require a local induction and the expectations of suppliers and workers.

- c. **Conditions of Entry for Visitors.** The Torres Strait Island Regional Council has adopted Subordinate Local Law No. 7 (Indigenous Community Land Management) 2019 which requires all visitors (including suppliers and workers) to strictly comply with the Conditions of Entry for Visitors under Local Law No. 7. A Copy of the Law and Visitor Entry Conditions may be viewed at <http://www.tsirc.qld.gov.au/Your Council/Subordinate Local Law No.7 Indigenous Community Land Management 2019.pdf>.

4.13 Fire ant compliance. Suppliers who deliver to site within the fire ant biosecurity zone and who deal with fire ant carriers that are high risk materials have a General Biosecurity Obligation and may be required to obtain a Biosecurity Instrument Permit. Suppliers shall comply with the Biosecurity Act 2014, the Biosecurity Regulation 2016 and all requirements of Biosecurity Queensland. Biosecurity Queensland conducts free training sessions to assist with the identification of fire ants and movement control requirements. Visit www.daf.qld.gov.au or contact Biosecurity Queensland on 13 25 23.

Note: In these conditions, "General Biosecurity Obligation" has the meaning given it in section 23 of the *Biosecurity Act 2014*.

5. Other important obligations

- 5.1 Responsibility to workers.** Arrangements or practices designed to avoid awards, registered agreements and/or legislative obligations are not permitted, including inappropriately treating a genuine employee as an independent supplier and inappropriate application of taxation arrangements.
- 5.2 Code of Tendering.** QBuild and all suppliers are required to comply with the *Code of Tendering* (AS4120-1994). The *Code of Tendering* (AS4120-1994) is available at <http://infostore.saiglobal.com> or for perusal at all QBuild offices.

6. Working together to resolve differences

- 6.1 The dispute process.** QBuild encourages differences and disputes between suppliers and QBuild to be managed at a local level. The following process should be followed:
- a. suppliers should first approach the relevant QBuild Senior Purchasing Advisor.
 - b. if the matter is still unresolved, the supplier should follow these stages in QBuild appeal process:
Stage 1: Lodgement of an appeal. The supplier shall provide written advice, including any supporting evidence, about the matter to the local QBuild Regional Manager or Regional Director.
Stage 2: Investigation of appeal. QBuild Regional Manager or Regional Director shall then investigate the appeal and shall respond in writing on the results of the investigation within fourteen (14) days of receiving the appeal.
Stage 3: Escalation of appeal. If the appeal remains unresolved, the supplier may refer the matter to the Executive Director, QBuild.

Please note: Where suppliers are engaged under a contract that defines a different dispute resolution process, those contract conditions will take precedence over the above procedures.

7. Breaches

- 7.1** A breach may be either a breach of contract, in which case it will be dealt with under the terms and conditions of the specific contract; or it may be a breach of these *Conditions of Working with QBuild – Suppliers of goods*, in which case it will be dealt with as follows:
- a. **Minor breaches.** Defined as minor or isolated behavioural incidents which shall be addressed as follows:
 - QBuild shall issue a verbal warning and provide the supplier with the opportunity to rectify the situation, review its systems and/or implement corrective action. The supplier shall complete the corrective action within the timeframe determined by QBuild.
 - If the supplier commits a further minor breach, QBuild shall issue the supplier with a written notice detailing the breach and required rectification within the stated timeframes in the notice.
 - If the supplier commits a third minor breach, this may constitute a significant breach.
 - b. **Significant breaches.** Significant breaches include, but are not limited to, the following:
 - recurring minor breach
 - a breach which results or may result in the termination of a contract
 - a breach of the *Code of Conduct for the Queensland Public Service*
 - a breach of any relevant legislation, including (but not limited to) the *Queensland Work Health and Safety Act 2011* and the *Queensland Building and Construction Commission Act 1991* (for example, loss of licence or undertaking or permitting another person to undertake building works without a licence)

- non-payment of sub-suppliers
- committing an act of insolvency
- the non-payment of a debt owing from the supplier to the Principal following an issue of a notice to the supplier by the Superintendent or Principal.
- any breach of the *Conditions of Working with QBuild – Suppliers of goods*.

Significant breaches shall be addressed as follows:

- QBuild may give the supplier written notice to show cause why its registration should not be cancelled and may require the supplier to provide a written response to QBuild within a stated timeframe why QBuild should not cancel the supplier's registration.
- If the supplier fails to provide a written response or a satisfactory written response within the stated time, QBuild may cancel the supplier's registration by written notice.
- The remedy of a breach will not constitute grounds for an extension of time or reimbursement of cost incurred by the supplier.

Where QBuild has issued a show cause notice, QBuild may suspend the supplier's registration. Consequently, its eligibility to complete existing contracts or tender for new contracts may also be suspended pending resolution of any alleged breach.

All breaches will be recorded on the supplier's file.

7.2 Termination of contract. In cases of proven significant breaches or if a contract between a QBuild registered supplier and the State through QBuild is terminated (other than by a mutual agreement), QBuild shall be entitled by written notice to cancel the supplier's registration without issuing a notice to show cause.

Please note: *Actions under clause 7 are independent of, and in no way limit, the rights of QBuild to take any other action required or provided by specific contracts.*

8. Re-registration of suppliers

8.1 QBuild rights to accept or reject re-registration. A supplier whose QBuild registration has been cancelled shall not be eligible to apply for re-register for six months or such other period as QBuild may determine. Any supplier applying for re-registration shall demonstrate to QBuild absolute satisfaction its fitness for re-registration. QBuild is not obliged to accept an application for re-registration.

9. Right to Information and disclosure

9.1 The *Right to Information Act 2009 (RTI Act)* provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies.

9.2 The *RTI Act* requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to public interest.

9.3 Information contained in an offer is potentially subject to disclosure to third parties.

9.4 In the assessment of any disclosure required by QBuild pursuant to the *RTI Act*, offerors and suppliers accepts that any information provided by them, including information marked as confidential, shall be assessed for disclosure in accordance with the terms of the *RTI Act*.

9.5 Where a contract is awarded as a result of an invitation process QBuild may publish on the Queensland Government Marketplace website or by any other means, contract information including:

- a. the name and address of the QBuild and the supplier
- b. a description of the goods and/or services to be provided under the contract
- c. the date of award of the contract (including the dates of relevant stages if the contract involves more than one stage)

- d. the contract value (including the value for each stage if the contract involves more than one stage) and advice as to whether any non-price criteria were used in the evaluation of offers
 - e. the procurement method used
 - f. for contracts with a value over \$10 million, the contract, or summary information in respect of the contract, between QBuild and the supplier.
- 9.6 For invitations to the open market, QBuild may publish the names of all Offerors and all lump sum tender prices offered.

10. Information Privacy Act

- 10.1 If a supplier collects or has access to personal information in order to carry out work under the contract, the supplier shall:
- a. comply with Parts 1 and 3 of Chapter 2 of the *Information Privacy Act 2009* (IPA) in relation to the discharge of its obligations under the contract as if the supplier were an 'agency' as defined under IPA
 - b. not use personal information other than in connection with carrying out work under the contract, unless required or authorised by law
 - c. not disclose, or transfer outside of Australia, personal information without the prior written consent of the QBuild, unless required or authorised by law
 - d. ensure that its workers do not access, use or disclose personal information other than in connection with carrying out work under the contract
 - e. ensure that its workers who have access to personal information comply with all obligations under this clause as if it were the supplier
 - f. fully cooperate with QBuild to enable QBuild to respond to applications for access to, or amendment of a document containing an individual's personal information and to privacy complaints
 - g. comply with such other privacy and security measures as QBuild may reasonably require from time to time.
- 10.2 On request by QBuild, the supplier must obtain from its workers carrying out work under the contract, an executed deed of privacy in a form acceptable to QBuild.
- 10.3 The supplier must immediately notify QBuild on becoming aware of any breach of Clause 10.1.
- 10.4 This clause will survive the termination or expiry of any contract that may arise.
- 10.5 In this clause, 'personal information' is information or an opinion, including information or an opinion forming part of a database, whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion.

11. Due diligence

- 11.1 QBuild reserves the right to conduct due diligence checks on supplier information. QBuild may undertake the due diligence checks itself or QBuild may engage a third party to undertake these checks on its behalf.
- 11.2 QBuild reserves the right to conduct due diligence checking when evaluating tenders submitted by offerors to QBuild. Offerors submitting tenders may be required to provide additional financial, corporate and past performance information, and may be required to nominate referees and accommodate site visits and make presentations. QBuild may undertake the due diligence checks itself, or QBuild may engage a third party to undertake these checks on its behalf. Failure by an offeror to provide any requested information may result in its tender not being further considered. At all times, all parties are required to maintain strict confidentiality of information provided.

12. Confidential information

12.1 Documents supplied by QBuild and marked or otherwise identified as confidential shall be regarded as confidential and shall not be disclosed to third parties by the supplier except with prior agreement from QBuild. If requested in writing by QBuild, the supplier shall enter into a confidentiality undertaking, in a form acceptable to or provided by QBuild, acknowledging the supplier's agreement to not disclose the confidential information even after the completion or termination of the contract.

13. Conflict of interest

13.1 Conflict of interest means having an interest which conflicts or may be perceived as conflicting with the ability of the supplier to perform its obligations under an arrangement or contract fairly and objectively. The conflict may arise from a range of factors including personal relationships, other employment and membership of special interest groups or ownership of shares, companies or property.

13.2 Suppliers must warrant that, to the best of their knowledge, as at the commencement date of any contract or work with QBuild, neither the supplier nor any of its workers, have, or are likely to have a conflict of interest throughout the life of that contract.

13.3 If a conflict of interest or risk of conflict of interest arises throughout the duration of the contract the supplier must immediately give written notice to QBuild.

13.4 If QBuild considers that a conflict of interest exists, QBuild may reject an offer or terminate a contract, at its discretion.

14. Queensland Procurement Policy

14.1 Should a Supplier be awarded a Contract, the Supplier must, and must ensure its sub-suppliers, in carrying out works for QBuild, comply with:

- a. the principles of the Queensland Procurement Policy (Policy) and any requirements under Contract in this regard; and
- b. the Ethical Supplier Threshold.

14.2 The Supplier acknowledges that a failure to comply with the Principal's policies that apply to the work under Contract or the Suppliers' obligations under Contract can result in the imposition of a demerit or sanction under the Ethical Supplier Mandate, in addition to any other remedies available to the Principal under Contract and these Conditions.

14.3 Failure to comply in any respect with the requirements of the Policy will be considered a significant breach of these Conditions and a substantial breach of Contract.