

QBuild Supplier Performance Management Framework

– Department of Energy and Public Works



Queensland
Government

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This *Framework* is developed by the State of Queensland (Department of the Energy and Public Works - QBuild).

Subject to conditions of Creative Commons Attribution 4.0, substantial parts of material in this *Framework* were drawn from Queensland Government Office of the Chief Advisor – Procurement “*Managing and monitoring supplier performance v1.1 November 2018*” and the *Prequalification (PQC) System – review and sanctions process*.

1. Background

QBuild has implemented a Supplier Performance Management Framework (SPMF), to meet the requirements of the *Quality management systems – requirements AS/NZS ISO 9001:2016* and the *Conditions of Working with QBuild*.

Managing and monitoring suppliers' performance is necessary for QBuild to assess whether it is delivering value for money for the Department as well as for our Partner Agencies, which is a primary Principle of the Queensland Procurement Policy.

Information gained from managing and monitoring supplier's performance is important when procuring goods and services. A supplier's performance should be managed and monitored throughout the supply relationship with the Agency.

For performance related to contracts or arrangements, supplier performance will be managed by the Superintendent, Superintendent's Representative (SR) or QBuild Representative in accordance with the relevant contract/arrangement conditions.

2. Intent

This SPMF outlines how QBuild will manage instances where a supplier fails to comply with the Conditions of Working with QBuild.

The SPMF will impact suppliers that negligently, deliberately and/or repeatedly breach conditions whilst registered with QBuild. It is not intended to penalise suppliers who may have committed a minor breach and adopted practises and controls to ensure it is not repeated.

It is essential to the integrity of the QBuild registration database of suppliers to meet the standards expected of them who wish to do business with the Queensland Government. For suppliers who do not meet the standards, QBuild may take immediate action against a supplier (following a significant breach) or undertake a formal review of the supplier's registration.

The SPMF provides an overview of the review process that applies to suppliers while registered with QBuild.

3. Definitions

Term	Definition
Breach	May be either a breach of contract, as defined by the particular contract, in which case it will be dealt with under the conditions of the specific contract (if the contract is still on foot); and/or it may be a breach of the Conditions of Working with QBuild, as defined by the Conditions of Working with QBuild.
Minor breach	Is a breach that does not affect time, cost, quality, Legislation or Policy or considered as an isolated behavioural incident.
Natural Justice	Natural justice as defined in the <i>Australian Policy Handbook</i> requires decision-makers to act fairly and in good faith, without bias (pre-judgement or interest in a matter), to provide details of any matters affecting individuals, and to ensure a fair hearing'. Natural justice also includes 'procedural fairness'.
Negative performance	Negative performance is defined as a breach of the conditions of contract or the Conditions of Working with QBuild, as defined within the relevant conditions.

Term	Definition
Positive performance	Positive performance is defined as any behaviour, incident or workmanship that is in accordance with or exceeding the contract conditions or specification requirements. For example, this may include where the Supplier has provided exceptional service and/or displayed excellent communication skills when attending a job.
PQC	Whole of Government prequalification system for building contractors https://www.business.qld.gov.au/industries/building-property-development/building-construction/supply-queensland-government/prequalifying-major-projects/guidelines-resources
Principal (Client for consultancy contracts)	Means the description of State of Queensland, or State authority, specified in the relevant contract or arrangement documentation.
Procedural fairness	<p>The concept of procedural fairness is derived from the principles of <i>natural justice</i>. A process that demonstrates procedural fairness is one in which:</p> <ul style="list-style-type: none"> • decision makers act fairly and provide reasons for decisions. • the person affected is given a fair opportunity to respond. • all parties to a matter have an opportunity to present their case where an adverse decision or finding is made. • the decision-maker is impartial and acts without bias when making the decision. • all relevant arguments are considered, and irrelevant arguments are excluded, and • the decision, the reasons for the decision and the evidence upon which the decision is made are explained and are capable of review.
Significant breach	<p>Means a breach that is determined to be significant by reference to the following (but are not limited to):</p> <ul style="list-style-type: none"> • recurring (3) minor breach (within a 12-month period). • substantiated and recorded recurring (3) negative supplier performance (within a 12-month period). • a breach which results or may result in the termination of a contract. • a breach of the Queensland Government Supplier code of conduct. • 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). • a breach of Ethical Supplier Mandate (ESM) or the Ethical Supplier Threshold supported by compelling evidence (as defined in Ethical Supplier Mandate 2021). • a sanction under the Ethical Supplier Mandate (ESM). • a sanction under the Prequalification (PQC) System – review and sanctions process guideline. • the non-payment of a debt owing from the contractor to the principal following an issue of a notice to the contractor by the Superintendent or Principal. • any breach of the Conditions of Working with QBuild.

Term	Definition
Supplier (Contractor, Consultant)	Means a company/ person registered with QBuild and engaged to provide Goods and/or Services to the Principal.
Supplier issues	Breach Minor breach Negative performance Positive performance Significant Breach

4. Breaches

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 (if the contract is still on foot); or it may be a breach of the Conditions of Working with QBuild; in which case it will be dealt with as follows.

Any breaches must be substantiated as it is essential that of *Procedural fairness*, derived from the principles of *Natural Justice*, are applied to ensure a fair process in all matters with suppliers.

A process that demonstrates procedural fairness is one in which:

- decision makers act fairly and provide reasons for decisions.
- the person affected is given a fair opportunity to respond.
- all parties to a matter have an opportunity to present their case where an adverse decision or finding is made.
- the decision-maker is impartial and acts without bias when making the decision.
- all relevant arguments are considered, and irrelevant arguments are excluded, and
- the decision, the reasons for the decision and the evidence upon which the decision is made are explained and are capable of review.

All substantiated breaches will be reported in the Supplier Performance module.

Minor breaches

Defined as minor where it does not affect time, cost, quality, Legislation or Policy or considered as an isolated behavioural incident and is not managed under the terms and conditions of the specific contract.

QBuild Procurement Managers will 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 must complete the corrective action within the timeframe determined by QBuild. Verbal warnings are to be confirmed via email or detailed in a file note for future reference and/or action if required.

If the supplier commits a further minor breach, QBuild Procurement Managers will 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 and escalated to the QBuild Director Procurement.

Significant breach

For significant breaches, the supplier may be required to show cause in writing why QBuild de-registration should not be applied under the Conditions of Working with QBuild. A show cause notice would be issued by the Director Procurement.

The show cause should advise the supplier of the relevant breach and requires a written response within 5 business days of the date of issue of the show cause notice. In the case of extenuating circumstances, and at the sole discretion of the Director Procurement, an extension of time may be granted if sought by the supplier.

If the supplier fails to respond within the nominated time frame or does not provide a satisfactory response, the Director Procurement may de-register the supplier immediately, with the supplier notified in writing of such action.

5. Failure to meet the registrations requirements

If at any time, the QBuild Registrar considers a supplier has failed to meet the minimum registrations requirements, the QBuild Registrar may immediately make the supplier registration status 'inactive', without reference to the review and de-registration processes covered in this SPMF. In most cases the QBuild Registrar will issue advice of the licences and insurances nearing expiration in an attempt to have the supplier provide updated details prior to being made 'inactive'.

The action of making a supplier status 'inactive' means that the supplier is ineligible to be awarded a contract with QBuild.

The QBuild Registrar may take this action in the following specific circumstances as outlined in the Conditions of Working with QBuild where:

- it has been determined that a supplier no longer meets the minimum insurance requirements; or
- a supplier's building/trade licences (e.g., Queensland Building and Construction Commission licence, electrical contractor's licence, security licence etc) has been suspended or cancelled by the relevant licensing body, or the licence has expired; or
- a consultant's licence (e.g., Queensland Building and Construction Commission licence for project management services) or professional registration (e.g., registered architect with the Board of Architects of Queensland) has expired; or
- a consultant's Professional Indemnity or Public Liability insurances have expired; or
- a registrant is unable to trade, due to:
 - being placed in administration
 - going into receivership
 - going into liquidation.

If the QBuild Registrar is satisfied that the suppliers have rectified their position to meet the minimum requirements, then the supplier's registration status will be made 'active'.

6. Review of supplier registration

QBuild may review, at any time, a suppliers registration status and suspend or cancel such registrations at its discretion.

Triggers for reviews may include but not limited to:

- an unsatisfactory performance report relating to the supplier's performance.
- professional or ethical misconduct by a consultant or its personnel (officer, director, employee or agent of the consultant) in regard to behaviours or work practices that are in

conflict with those outlined in the relevant profession or registration board's code of conduct.

- allegations of dishonest, improper, unethical, collusive, fraudulent or corrupt conduct by a supplier or its personnel (officer, director, employee or agent of the supplier).
- a supplier exhibiting behaviour/s which may be an indication it is under financial or managerial stress.
- Suspected or actual breaches of a statutory or contractual nature (in relation to a contract or commission). Such breaches may be identified by regulating bodies, a superintendent (or equivalent) under a contract or a project manager under a commission.
- written advice from the PQC Registrar or the QGP Compliance Branch, Department of Energy and Public Works that it has taken action against a supplier under the PQC Registration or the Ethical Supplier Mandate.
- written complaints from affected or interested parties.

7. Considerations when monitoring and managing supplier performance

Roles and responsibilities

Responsibility for monitoring supplier performance management is assigned based on the type of procurement activity. A list of Roles and Responsibilities is available in Appendix A. See the Contract Management Matrix for further information.

Risks if supplier performance management is inadequate

If supplier performance management is not performed correctly, the risks include:

- Potential failure of the supplier to fulfil contractual requirements
- Not meeting legislated requirements
- Not achieving a value for money outcome
- Poor quality outcomes
- Supplier unwilling to improve performance
- Difficulty in managing the contract
- Poor working relationships with suppliers
- Limited record keeping of supplier performance restricting the ability to enforce contractual obligations
- Not achieving the contract outcomes
- Formal complaints from suppliers, Agency Partners, or the public
- Damage to the reputation of the agency/department
- Market perception/view of QBuild

Procedural fairness

In accordance with principles of natural justice, supplier performance reporting must be objective, accurate and reasonable and the supplier must be given reasonable opportunity to comment on the assessment of their performance.

Where supplier performance issues are identified during a contract / arrangement, a performance report should be prepared as soon as possible to facilitate timely discussion between the reporting officer (e.g., Superintendent's Representative) and the supplier in accordance with the relevant conditions.

Good communication is crucial

Suppliers should be made aware of any shortcomings in their performance as soon they occur. This enables performance issues to be identified clearly and addressed by all parties and provides an opportunity for the supplier to improve performance to a satisfactory level before more serious actions are taken.

Maintain records

It is important to manage and document supplier performance correctly because without robust performance management the agency opens itself to risk of re-engaging known poor performing suppliers to deliver goods, works and services. However, individual undocumented past performance challenges do not provide grounds for not engaging suppliers.

Where previous negative performance has been documented, it enables QBuild to mitigate risks by including risk mitigation strategies. (i.e., increase audits) to manage ongoing contracts or potentially being able to exclude poor performing suppliers from future works.

This approach also works in instances where suppliers continually display superior workmanship and good performance. Using the appropriate supplier performance management techniques, including completing performance reports, will enable staff to develop a record of exceptional performance by suppliers which can assist in future procurement activities, for example the supplier may be included in invitations for higher risk and/or politically sensitive contracts.

Detailed records should be retained of all formal or informal performance related communications and interactions – emails, letters, minutes, file notes, etc. Records are retained to ensure adequate information is available, decisions are defensible and, if required, for reference for further action.

Substantiated performance reports supported by evidence will form the basis for decision making in relation to ongoing registration status.

8. Appeals

If a supplier is dissatisfied with its de-registration, they may appeal in writing within ten business days, to the Assistant Director-General, QBuild.

The Assistant Director-General, QBuild will assess the appeal and may appoint a senior departmental officer to investigate the matter. This officer must be independent of the review process outlined in this document.

The Assistant Director-General will provide a written response to the supplier advising of the outcome of the appeal within ten business days of the completed investigation. The Assistant Director-General's decision will be final in these matters.

However, in the event that the Assistant Director-General has had direct involvement in matters that factor in the review process (which may present a conflict of interest situation), the Assistant Director-General will appoint a senior departmental officer to both investigate the appeal and to make a decision (which will be final) in relation to the matter.

9. Using past performance in future procurement decisions

Using past performance as part of an invitation to tender process or an evaluation factor in the procurement process can allow QBuild staff to better predict the quality and likely degree of works completed in accordance with contract and compliance with the Conditions of Working with QBuild. It also provides a strong incentive to suppliers to maintain high levels of performance.

Supplier performance records can provide important information for future procurement decisions. However, due regard must be given to a supplier's right to commercial-in-confidence dealings, fair process and any legislative requirements that trade not be restricted.

Supplier performance information should, therefore, be handled sensitively to avoid the potential for disputes over its collection and use. Personal information will be handled in accordance with the Information privacy Act 2009 (Qld).

Effective supplier performance monitoring that is properly integrated with the procurement process can provide agency staff with considerable insight into supplier capabilities, strengths, and weaknesses.

Past performance measures that are recorded and referred to in future procurement decisions must be objective. Some areas of performance that could be recorded include:

- breaches of Work Health and Safety legislation and regulations.
- conformance with specifications and standards of quality.
- containment and forecasting of costs.
- adherence to contract schedules, including administrative aspects of performance.
- history of reasonable and cooperative behaviour and overall business-like concern for the interests of the customer i.e., complaints register.
- service to the end user of the goods or services.

Where can you find more information?

The processes you need to follow to record supplier performance have been documented by QBuild Procurement Governance.

The information includes a series of detailed work instructions relating to what activities are required to record supplier performance.

Do you need further assistance or information?

For advice on implementation and supplier management you will first need to determine the status of the contract:

- **Pre-contract** – Regional Procurement
- **Live contracts** – The Superintendent or Superintendent's Representative
- **Arrangements** – Regional Procurement Manager
- **Completed contracts (Conditions of Working with QBuild)** – Procurement Governance

For further assistance regarding the application of the *Supplier Performance Management Framework* email [QBuild Procurement Compliance](mailto:qbuildprocurementcompliance@epw.qld.gov.au)
qbuildprocurementcompliance@epw.qld.gov.au

Appendix A – Roles and Responsibilities

Who	Responsibilities
Director Procurement	<ul style="list-style-type: none"> ensuring that Supplier Performance Management is implemented and resourced in the region to capture information needed to enable staff to make informed procurement decisions. working with the regional management team to determine reporting requirements. reviewing reports provided by the Regional Procurement Manager at Regional Leadership Team (RLT) meetings and providing feedback for action relating to Suppliers.
Regional Procurement Manager / Panel Manager	<ul style="list-style-type: none"> maintaining Supplier Performance Management activities in the region. ensuring that supplier performance is centrally reported in the region by, either carrying out the supplier performance reporting activities of the nominated officer themselves, or by assigning responsibility for the activities to another officer within the regional procurement team. recording and reporting both negative and positive feedback received relating to suppliers. communicating who is responsible for managing the activity in the region. ensuring a directory location is set up for the centralised retention of Supplier Performance records. monitoring supplier performance data and utilising this information to take action, provide alerts and make informed procurement decisions. providing periodic reports to the Regional Leadership Team on supplier performance matters. ensuring that records are retained of supplier performance activities to ensure that information can be retrieved in the future if required. completing/monitoring actions necessary to resolve any issues raised (if nominated), ensuring updates are provided to the SPRO to record in Ellipse. ensuring that records (photos, emails, file notes, etc.) are provided to the nominated officer to ensure they are retained in the project file as well as a centralised Supplier Directory location for future reference, as required.
Supplier Performance Reporting Officer (Nominated Officer) <i>In most cases this would be the Procurement Officer</i>	<ul style="list-style-type: none"> following this instruction to ensure that supplier performance reports are raised in Ellipse and that records of all information provided are retained centrally to ensure that it can be retrieved in the future, as needed. monitoring supplier matters raised in Ellipse to ensure that they are actioned in a timely manner. generating reports for the Regional Procurement Manager as required.
QBuild Registrar	<ul style="list-style-type: none"> reviewing information on suppliers provided by other agencies (e.g., QBCC, Daily Insolvency Notices, etc.) and actioning the management of supplier matters appropriately. managing the timely updating of registration records to reflect such advice. circulating details of changes to supplier status to QBuild regions to ensure they are kept abreast of relevant changes.

Who	Responsibilities
	<ul style="list-style-type: none"> • reviewing licensing information periodically and actioning as needed to deactivate and reactivate suppliers. • reviewing periodically the supplier database to identify supplier requirements that will be expiring and providing alerts to the suppliers concerned. • providing a monthly report to regional procurement managers detailing any suppliers identified with lapsed registration information (insurances, etc.) to enable the region to review, and take action, if they require the supplier to remain registered. • contacting the region where a vendor is to be closed, and a PO is in place, to confirm that they are taking appropriate action i.e. reassigning work. • managing Registrations team and directing actions to be taken to ensure that the supplier database is maintained. • ensuring that records are retained of Registration activities to ensure that information can be retrieved in the future if required including information in Registrations and Registrar's Outlook inboxes.
Procurement Governance	<ul style="list-style-type: none"> • providing advice and guidance on procurement compliance activities. • providing guidance and advice to regional operations and procurement staff responsible for managing supplier performance. • developing and distributing information on supplier performance to regional management and procurement teams, across regions where necessary. • generating periodic reports on suppliers state-wide to identify any issues where suppliers provide goods and services across multiple regions. • liaising with staff where supplier matters occur in multiple regions to ensure that an overall picture of contractor/supplier performance is captured and managed appropriately. • analysing supplier performance data to identify any trending issues, investigating any trends and providing guidance to the regional leadership and procurement teams. • developing information for inclusion in contractor/supplier communications relating to identified trends, procurement related industry requirements, etc. • continually improving the reporting information to the leadership team. • ensuring that records are retained to ensure that information can be retrieved in the future as required including records retained by Registrations in Mailbox, Procurement Governance directories relating to supplier performance activities. • reviewing of breaches of Conditions of Working with QBuild and preparing documents as determined necessary for example Show Cause letters, Notices, etc. for the management of the contractual and legal relationship between QBuild and supplier businesses; liaising with EPW Contract Services for EPW contracts and Legal Services, as required • providing advice or referral of Ethical Supplier matters.