Buyers guide – Applying the Queensland Government Supplier Code of Conduct 2023

Background

The *Buy Queensland 2023* approach to procurement emphasises the government's intent to do business with ethically, environmentally and socially responsible suppliers.

Clause 20 of the Queensland Procurement Policy 2023 (QPP 2023) outlines that invitation documentation must require suppliers to warrant that they comply with the Queensland Government Supplier Code of Conduct. Contract documentation must include a condition requiring ongoing compliance with the Code during the contract term.

The Queensland Government Supplier Code of Conduct 2023 (Code) outlines the expectations that the Queensland Government has of businesses that want to do business with government, and outlines what constitutes a responsible supplier. By ensuring supplier compliance with the Code, this demonstrates that government is leading by example in preventing harm through its procurement.

How to implement the Code

Each budget sector agency, statutory body, government-owned corporation and special purpose vehicle (collectively known as 'agencies') is responsible for implementing the Code within its procurement activities.

Agencies are encouraged to take a simple, pragmatic approach to implementation. At a minimum, ensure invitation documentation contains a statement(s) requesting suppliers to warrant compliance with the Code, and include an appropriately worded clause(s) in contract documentation to require ongoing compliance with the Code during the contract term.

In preparing the invitation documents and evaluation plan, warranting compliance with the Code should be captured as a mandatory evaluation criterion, to be evaluated on a 'pass/fail' basis and is not weighted.

In drafting the criteria, consider whether, and if so how, suppliers would substantiate warranting compliance with the Code. This could take the form of targeted questions on aspects of the Code (e.g. a question could be specifically asked on cartel activity if there is a history of collusive activity in the market concerned). Alternatively, for more significant procurement activities, suppliers can also be asked to sign a supplier declaration to abide by the Code as part of their response.

Like drafting any other criteria, it is important to consider the nature, value and risk of the procurement, and the supply market. For example, it may be unrealistic to expect small and medium businesses, social enterprises or sole traders to have sophisticated workplace strategies, policies and practices. Having said that the Code does not prevent all types or sizes of businesses from implementing simple approaches to demonstrate their ethical, environmental and social credentials and therefore warrant compliance.

This guide provides several example clauses for invitation documents (including tenders), guidance on how buyers could evaluate supplier responses, and example clauses that can be put into resulting contracts.

Applying tender and contract clauses

The following tables include example clauses for use in invitation documents. These range from simple to more complex and can be targeted towards specific aspects of the Code. Before using any of these clauses, carefully consider the complexity of the procurement, your market assessment and what benefits you are hoping to achieve.

The tables on the following pages include three columns:

- Column one lists example clauses that can be used, or adapted for use, in invitation documents.
- Column two, 'How this would be evaluated' provides guidance on how to assess supplier responses against each question.
- Column three provides example contract clauses (where appropriate). If inserting such a clause, government buyers will also need to monitor supplier compliance, for example, by applying key performance indicators or standard contract management processes. If a supplier fails to comply, consideration may be given to possible suspension or termination actions as contained with the contract's terms and conditions.

Note: *The procuring government agency is referred to as the 'Customer' in the following tables. Terms which are capitalised in the tables are defined under the 'Definitions and Interpretation' document published as part of the standard terms and conditions for the procurement of general goods and services. These clauses are provided as examples and it is strongly recommended that you consider rewording to fit the required procurement, and to align with any agency specific terms and conditions. Buyers are encouraged to seek procurement and legal review in accordance with their agency procurement processes.*

1. General acknowledgement

When would these provisions be suitable?

- ✓ to broadly raise awareness of the Code and the government's intent to do business with suppliers who are ethically, environmentally and socially responsible
- ✓ procurement aimed at small and medium businesses
- ✓ routine procurement.

Response question	How this would be evaluated	Example clauses for inclusion in resulting contract
Does your organisation warrant compliance with the expectations contained in the Queensland Government Supplier Code of Conduct 2023?	This question requires a 'yes/no' response.	The Supplier is to comply with all expectations as contained in the Queensland Government Supplier Code of Conduct 2023 for the term of this Contract. The Supplier is to notify the Customer, in writing, within ten (10) business days, should it cease to be compliant with the Queensland Government Supplier Code of Conduct 2023. The Customer reserves the right, at its sole and absolute discretion, to require the Supplier to provide confirmation of their compliance with the Queensland Government Code of Conduct 2023. The Queensland Government may, from time-to-time, update or amend the Queensland Government Supplier Code of Conduct 2023. The Supplier is solely responsible for informing themselves and ensuring compliance with any updated or amended Queensland Government Supplier Code of Conduct 2023. The Customer is under no obligation to inform the Supplier of any updates or amendments to the Queensland Government Supplier Code of Conduct 2023.

2. Specific provisions

When would these provisions be suitable?

- ✓ where it is necessary to address a specific area of concern within a particular supply market/industry (e.g. modern slavery risks)
- ✓ where a more formalised response to the Code is desired (through the 'Supplier formal declaration')
- ✓ procurement aimed at medium to large businesses
- ✓ more significant procurements, and when setting up common-use supply arrangements.

Note: *The 'General acknowledgement' questions in Section 1 can be used in addition to the below if needed.*

Response question	How this would be evaluated	Example clause for inclusion in resulting contract
To address a particular area of concern The Queensland Government Supplier Code of Conduct 2023 includes expectations related to <<insert area of concern>>. Please detail what action your organisation has and/or will take to ensure compliance with this expectation. Please provide supporting information in evidence of your response.	This will vary depending on the specific area of concern, and the methodology for evaluating this question as recorded in the evaluation plan. Key things to look for may include evidence of the organisation's internal policies or procedures, copies of relevant certifications or accreditations, or asking the supplier to complete a supplier questionnaire (e.g. acting against human rights exploitation in the supply chain including addressing modern slavery risks).	***If the supplier, as part of its response, includes reference to a particular document, the following can be used*** The Supplier shall maintain its <<insert name>> for the term of this Contract. The Supplier is to notify the Customer, in writing, within ten (10) business days, should it cease to have <<insert name>> within its organisation.
Supplier formal declaration In responding to this Invitation to Offer, the Supplier is to provide a signed declaration in relation to the Queensland Government Supplier Code of Conduct 2023.	This question requires a 'yes/no' response.	***The signed declaration forms part of the resulting contract***

Managing adverse responses during the tender process

Agencies should carefully prepare the evaluation plan to address situations where an offer returns a negative or adverse response to mandatory evaluation criteria. Refer to the Evaluating offers guide for further support.

Contract management

Contract requirements in relation to the Code should be monitored and managed regularly in the same way as other contract expectations such as quality and costs.

Contact

Queensland Government Procurement, Department of Energy and Climate is committed to continuous improvement. If you have any suggestions about how we can improve this guide, please send your ideas to betterprocurement@epw.qld.gov.au.

Buyers guide – Applying the Queensland Government Supplier Code of Conduct 2023

Version	Date	Comments
1	31 May 2023	Guide published.
2	18 July 2024	Guide updated and published. Updates include: • Alignment with *Buy Queensland 2023*. • Clarifying compliance requirements. • Alignment with the Evaluating Offers Guide.
3	23 July 2024	Minor updates: • Added Version control table. • Added Copyright, Contact us and Administration sections. • Updated Disclaimer section.

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Contact us

Queensland Government Procurement, Department of Energy and Climate is committed to continuous improvement. If you have any suggestions about how we can improve this document, or if you have any questions, contact us at betterprocurement@epw.qld.gov.au.

Disclaimer

This document is intended as a guide only for the internal use and benefit of government agencies. It may not be relied on by any other party. It should be read in conjunction with the *Queensland Procurement Policy*, your agency's procurement policies and procedures, and any other relevant documents.

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Administration

Version 3 replaces all previous versions of the guide and takes effect immediately.