



Queensland
Government

Department of
Energy and Public Works

Show Cause Notice (Example Only)

Ethical Supplier Mandate

This *Show Cause Notice* should be issued to suppliers where an outcome of an investigation indicates a non-compliance is capable of being progressed under the Ethical Supplier Mandate (the Mandate) and the supplier may be liable to be issued demerits. The Show Cause process provides suppliers with an opportunity to respond to allegations of a non-compliance. It is important to note that this Show Cause is not to be confused with the contractual usage of a *Show Cause Notice*. This Show Cause relates to processes under the Ethical Supplier Mandate and is not related to potential termination of contract.

Our Reference: INS-12345

Date Issued: 21/07/2022

Supplier's contact details:

John Smith
Contract Administrator
ABC Pty Ltd
123 George St
Brisbane QLD 4000

Ethical Supplier Mandate Show Cause Notice

Dear Mr Smith,

On 30/09/2022, the Queensland Government Procurement Compliance Branch, Procurement Investigation Unit (PIU) became aware that ABC Pty Ltd (Example company only) may have breached the Mandate. The potential non-compliance was identified during an audit by the Buy Queensland Audit Unit (BQAU).

ALLEGATION

It is alleged that:

ABC Pty Ltd failed to comply with their contracted commitments to the Queensland Government Building and Construction Training Policy (Training Policy) for the Example Project. The Letter of Acceptance for this project is dated 15 June 2021. ABC Pty Ltd was required to complete 2656 hours using new entrants, however only 1433 hours were achieved, contributing to a 54% commitment of the contract agreed hours. In addition, ABC Pty Ltd was required to complete 1770 hours of other workforce training, however only 97 hours were achieved, contributing to a 6% commitment of the contract agreed hours. In total, of the 4,426 hours that were required to be completed, only 1,540 hours were achieved, contributing to a 34% commitment of the contract agreed hours. This constitutes a breach of the Training Policy.

The Training Policy requires contractors to employ apprentices and trainees as well as undertake other workforce training as mandated components of being awarded work on eligible Queensland Government projects.

Compliance and reporting arrangements for the Training Policy is a policy requirement and condition of contact. ABC Pty Ltd was required to submit a compliance plan and practical completion report for the project specific to the agreed number of hours required to be completed by apprentices, trainees,

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and indigenous employees for the project. The information available to BQAU through Training Policy Administration System (TPAS) and information provided to BQAU by ABC Pty Ltd contained insufficient evidence to verify all hours entered into TPAS for new entrant and other workforce hours.

The Mandate sets out the system for penalising suppliers that breach the Training Policy. Section 2.2 of the 2019 Mandate sets out the demerit provisions for non-compliances to commitments to apprentices and training. A breach of the Training Policy constitutes a breach under the Mandate.

INVESTIGATION

An investigation into the alleged breach has been conducted by PIU.

A copy of the following documents and evidence has been obtained during the investigation and are attached for your consideration in relation to this alleged breach:

Attachment No.	Attachment/folder name
1	Evidence to Support Non-compliance
2	Contracts and Associate Documents

SHOW CAUSE PROCESS

PIU will provide the investigation findings and any response received to the *Show Cause Notice* to Example Agency. The Example Agency proposes to submit the alleged breach to the Queensland Government Procurement Compliance Branch for escalation under the Mandate to the Tripartite Procurement Advisory Panel (the Panel) for recommendation regarding compliance with the Mandate.

This show cause process allows an opportunity for ABC Pty Ltd to consider the evidence and documents enclosed and then provide any further evidence that has not been considered as part of the investigation refuting or contesting the allegation, outline situational details not raised to this point that may have inadvertently caused the potential breach to occur and/or provide details of any further remedial actions not identified that the business may have taken to address the alleged non-compliance. Any response submitted should be supported by evidence or proof of the detailed claims. You may refer to the Mandate for more information about this process.

PROVIDING A RESPONSE

You are invited to make written representations about this *Show Cause Notice* setting out why the alleged breach should not be referred to the Panel for escalation under the Mandate.

Any reply to this *Show Cause Notice* is required in writing and should attach any information you consider relevant.

Any response you wish to provide should be received by PIU within ten (10) business days of issue of this Notice.

Response Due Date: Click or tap to enter a date.

Please issue all responses to:

Name: Insert agency contact.

Email: Email of agency contact.

You may request an extension beyond the ten (10) business day timeframe to respond, if required. Sound reasons must be provided for the extension. The PIU will provide communication confirming whether this extension has been granted.

NO RESPONSE

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The decision maker will consider any written representations that you make on or before the submission due date.

If no response is received within ten (10) business days of issue of this Notice, this matter will be automatically referred to the Example Agency for consideration to escalate to the Panel.

POSSIBLE DEMERIT APPLICATION

If the alleged conduct outlined in this Notice is found to be a breach under the Mandate, ABC Pty Ltd may be issued with demerits under the policy.

Demerits expire twelve (12) months from the date they are issued, unless applied to a sanction. All demerits applied to a sanction determination will be retired at the conclusion of the Sanction period and will not contribute to future non-compliance decisions.

POSSIBLE SANCTION APPLICATION

In the event that twenty (20) demerits are accumulated in the same 12-month period, a sanction under the Mandate will be considered. A sanction may involve exclusion from Queensland Government procurement for a defined period of up to 12 months.

COMPLIANCE RECORD UNDER THE POLICY

All confirmed breaches under the Mandate will be collated to form your compliance record under the policy. Procuring agencies will have access to this record when assessing the risk profile of future procurement.

The Queensland Government takes all matters of compliance seriously. The Mandate will impact suppliers that negligently, deliberately and/or repeatedly breach contractual obligations, policies or laws. It is not intended to penalise honest mistakes or oversights that are found and corrected. Non-compliance with the Mandate is assessed on a case-by-case basis by the Panel that makes recommendations to the decision maker (the Director-General within the Example Agency) who makes the final determination that allows for additional discretionary assessment that also takes into account whole-of-government procurement implications.

If you have any questions regarding this Notice, please contact me at QPPCompliance@epw.qld.gov.au.

Yours sincerely,

Tatjana Cindric

Manager

Procurement Investigation Unit

Queensland Government Procurement Compliance Branch

The Department of Energy and Public Works is collecting personal information for the purpose of verifying compliance with your contracted commitments to government policies including the Building and Construction Training Policy, the local benefits test contained in the Queensland Procurement Policy or (where applicable) the Best Practice Principles, and with the Ethical Supplier Mandate and the Ethical Supplier Threshold. Personal information may be disclosed to State and Federal regulators, the State's legal advisors, partner agencies, service providers, or local governments that may be able to assist in this process of verification. Limited personal information may be used for related research, policy or planning functions. Unless authorised or required by law, personal information will not otherwise be disclosed to any other third party without your consent. More information about the Department's privacy policy is available on our website at <https://www.epw.qld.gov.au>.