

# Prequalification (PQC) Conditions

Contractors and Consultants



## Conditions of application

The definitions stated in Attachment 1 of this document apply to these conditions.

In submitting an application for prequalification, the Applicant:

1. acknowledges that the State will rely upon information provided by the Applicant to determine the Applicant's eligibility for registration.
2. agrees that it will:
  - a. make available to the State, upon request, all necessary documentation held or reasonably obtainable by the Applicant supporting its application for registration;
  - b. provide the names of all Significant Individuals of the Applicant;
  - c. prior to registration, notify the State, without delay, of material changes, if any, to its operational or management practices, and its financial or technical capacity, that may have an effect on its eligibility for registration;
  - d. have no entitlement to tender for, or be awarded, any contract with the State, under the Prequalification (PQC) System; and
  - e. be bound, upon registration, by the *Conditions of Prequalification (PQC)*.
3. agrees that the State may:
  - a. in relation to any information provided by the Applicant, undertake searches and enquiries, and/or share such information, with other relevant government entities, external consultants, assessors and advisors engaged by the State and the Building Construction and Maintenance (BCM) Industry Reference Group (hereafter called the IRG), to determine the Applicant's suitability and eligibility for registration (including, amongst other things, the performance and/or financial standing of the Applicant).

Note: Government entities, external consultants, assessors and advisors and members of the IRG will be required to maintain confidentiality of all information received.

- b. identify business attributes such as Aboriginal and Torres Strait Islander businesses status during application assessment and may review these at intervals throughout the registration period.
4. acknowledges and agrees that, once prequalified, the State is entitled to:
  - a. publish the Entity name, ABN and business address of registrants on the Prequalification (PQC) System; and
  - b. share information relating to the Applicant's performance, including a performance report referred to in clause 7 of the *Conditions of Prequalification (PQC)*, to other relevant government entities for the purpose of monitoring performance and to determine continued eligibility for prequalification on the Prequalification (PQC) System.
5. acknowledges that the Privacy notice has been read and understood.

### Note

The person whose signature appears on the application is duly authorised to commit the Applicant to the above Conditions and the Conditions of Prequalification (PQC).

## Privacy notice

The Department of Housing and Public Works is collecting your personal and business information for the purpose of assessing your application for prequalification on the PQC System. To assist in assessing your application your information may be given to third parties including but not limited to government entities with responsibility and accountability for the administration of the legislation and policy listed below:

- *Building Act 1975* (Qld)
- *Building and Construction Industry (Portable Long Service Leave) Act 1991* (Qld)
- *Building Industry Fairness (Security of Payment) Act 2017* (Qld)
- *Electrical Safety Act 2002* (Qld)
- *Industrial Relations Act 2016* (Qld)
- *Labour Hire Licensing Act 2017* (Qld)
- *Plumbing and Drainage Act 2018* (Qld)
- *Planning Act 2016* (Qld)
- *Queensland Building and Construction Commission Act 1991* (Qld)
- *Work Health and Safety Act 2011* (Qld)
- *Workers' Compensation and Rehabilitation Act 2003* (Qld)
- *Queensland Industry Participation Policy Act 2011* (Qld)
- Queensland Procurement Policy
- Queensland Indigenous Procurement Policy
- Queensland Building and Construction Code of Practice
- Queensland Government Building and Construction Training Policy
- Queensland Charter for Local Content

The Department of Housing and Public Works may also give this information to other relevant government entities; external consultants, assessors or advisors; and members of the IRG for the purpose of assessing your application, maintaining prequalification status and being considered to undertake Queensland Government building work.

Once prequalified, your information may be shared with other relevant government entities for the purpose of monitoring performance and to determine continued eligibility for prequalification on the Prequalification (PQC) System.

This information will not otherwise be disclosed to any other third party, without your consent, unless authorised or required by law, or for the purposes of obtaining legal or financial advice, or in relation to reviews or appeals regarding prequalification status or decisions.

## Conditions of Prequalification (PQC)

The definitions stated in Attachment 1 of this document apply to these conditions.

1. The Registrant acknowledges that the Queensland Government (the State) has relied upon information provided by the Registrant in granting registration to the Registrant.
2. The Registrant agrees to make available to the State, upon request, all necessary documentation held or reasonably obtainable by the Registrant supporting its initial, or any subsequent application for registration.
3. The Registrant agrees that the State may in relation to any information provided by the Registrant, undertake searches and enquiries, and/or share such information, with other relevant government entities, external consultants, assessors or advisors engaged by the State, and members of the IRG to determine the Registrant's suitability and eligibility for registration (including, amongst other things, the performance and/or financial standing of the Registrant) in support of its initial application or any subsequent assessment to vary its registration status.
4. Government entities, external consultants, assessors and advisors and members of the IRG will be required to maintain confidentiality of all information received.
5. This information will not otherwise be disclosed to any other third party, without consent, unless authorised or required by law, or for the purposes of obtaining legal or financial advice, or in relation to reviews or appeals regarding prequalification status or decisions.
6. The Registrant agrees to notify the State without delay of any material changes to its business attributes, operational or management practices, and to its financial and technical capacity, which may have an effect on its registration status.
7. The Registrant agrees to participate in performance reporting processes for all Government building projects under the Prequalification (PQC) System on which the Registrant has been contracted. A performance report may result in the State reviewing, upgrading, downgrading, suspending, or cancelling the Registrant's registration.
8. The Registrant warrants that, in the event of entering into any contract with the State or a subcontract with a head contractor on a project to which the Best Practice Principles apply, it will not breach any contractual or legal requirements of the State, including but not limited to:
  - a. the *Queensland Building and Construction Commission Act 1991* (Qld), including the requirement to maintain the correct licences for the work that the Registrant is registered for;
  - b. the *Queensland Code of Practice for the Building and Construction Industry*;
  - c. workplace health and safety, industrial relations, workers compensation and any environmental legislation;
  - d. legislation that specifically applies to the building and construction industry, and
  - e. government policies developed from time to time that specifically apply to the building and construction industry.
9. The Registrant warrants that all Significant Individuals of the Registrant are "fit and proper persons" and not "excluded individuals" as defined in the *Queensland Building and Construction Commission Act 1991*.
10. The Registrant warrants that it will keep financial records as required by the *Prequalification (PQC) System - financial requirements guideline*.
11. The Registrant acknowledges that it is not entitled to tender for, or be awarded, any contract with the State, under the *Prequalification (PQC) System*, unless appropriately prequalified.

12. Any registration status accorded to any Registrant shall not be regarded, taken or held out as any warranty or undertaking as to the performance of any Registrant on any construction project nor as any basis for liability by the State to make payments to the Registrant or any of its suppliers or subcontractors.
13. The State gives no warranty or undertaking of any nature to any party or person by reason of registration as to a Registrant's competency, ability or fitness to undertake construction work of any nature whatsoever.
14. The State does not accept liability for any loss of any nature whatsoever occasioned by any party or person acting or refraining from acting in reliance upon any statement, advice or in any way connected or associated with registration.
15. A breach of any of these *Conditions of Prequalification (PQC)* may result in the State reviewing, downgrading, suspending, or cancelling the Registrant's registration. Notwithstanding, the State in its absolute discretion and at any time, without reference to the Registrant, may review, downgrade, suspend or cancel registration.
16. The Registrant acknowledges that the State has not made any representations or commitments to enter into any contract with the Registrant to undertake any Government building project work.

## Attachment 1: Definitions

**Applicant** is defined as the entity (either an individual, a company or partnership) that is applying for prequalification in order to be invited to submit proposals and enter into contracts with the Queensland Government.

**Government building project** generally means a building project for a 'government department', as defined in the *Financial Accountability Act 2009*. A **government building project** must be owned by a government department on completion.

Work covered by this definition includes:

- a) the erection, establishment, or construction of a building
- b) any maintenance of a building assessed as high risk/significant
- c) the repair, renovation, refurbishment, alteration, extension or improvement of a building or maintenance of a building combined with any of these works
- d) the demolition or removal of a building
- e) any site work (defined as building work under the *Queensland Building and Construction Commission Act 1991* related to work of any kind associated with a) to d) above as a separate contract in itself
- f) travellers and escalators, water supply, sewerage or drainage under installation or supply and installation contracts associated with a) to d) above as a separate contract in itself, and the provision of services generally (including but not limited to power, lighting, communications, security systems, fire, heating, ventilation, air conditioning, lifts)

but excludes:

- g) service maintenance contracts associated with a building
- h) the construction, maintenance, or repair of a road under the *Land Act 1994*
- i) the construction, maintenance, or repair of a bridge
- j) the construction, maintenance or repair of railway tracks, signals or associated structures
- k) the construction, maintenance or repair of harbours, wharfs and other marine structures not related to land-based building work
- l) the construction, maintenance, or repair of a dam.

The majority of **government building projects** involves construction of new buildings, extensions to buildings or major refurbishments to existing buildings.

Notwithstanding, this definition should be taken as a guide only and is not exhaustive. This definition does not capture grants to organisations that are external to government departments, although government departments making grants to such organisations may, at their discretion and after receiving advice from the Department of Housing and Public Works, attach conditions to a grant to give effect to specific elements of the Building Policy Framework.

**Office** is defined as that **office**, which is not a site **office**, from which the normal contracting business of the **applicant** is conducted.

**Registrant** is defined as the entity (either an individual, a company or partnership) that has satisfied the requirements for registration on the Queensland Government's Prequalification (PQC) System.

**Significant Individual** is:

- a) a director, secretary, senior **worker** of the **applicant/registrant**; or
- b) in the case of a sole trader or individuals in partnership:
  - i. the party/ies identified as the **applicant/registrant**; and

- ii. an individual who is in a position to control or substantially influence the conduct of the **applicant's/registrant's** affairs, including, for example, a financier or a senior **worker**
- c) an 'influential person' as defined in the *Queensland Building and Construction Commission Act 1991*, namely:
  - 1. for a company, is an individual, other than a director or secretary of the company, who is in a position to control or substantially influence the company's conduct
  - 2. However, an influential person does not include -
    - a. a professional, only because the advice given by the professional influences the company's conduct; or
    - b. a regulator, only because the regulator, when exercising a power or performing a function under an Act or other law, influences the company's business; or
    - c. an administrator, controller, provisional liquidator or liquidator within the meaning of the *Corporations Act, section 9*
  - 2. Without limiting subsection (1), a person may be an influential person for a company if the person -
    - a. is the chief executive officer or general manager of the company, or holds an equivalent position in the company; or
    - b. is acting in a position mentioned in paragraph (a); or
    - c. directly or indirectly owns, holds or controls 50% or more of the shares in the company, or 50% or more of a class of shares in the company; or
    - d. gives instructions to an officer of the company and the officer generally acts on those instructions; or
    - e. makes, or participates in making, decisions that affect the whole or a substantial part of the company's business or financial standing; or
    - f. engages in conduct or makes representations that would cause someone else to reasonably believe the person controls, or substantially influences, the company's business.

**Worker** is as defined in the *Workers' Compensation and Rehabilitation Act 2003*.

**Enquiries regarding these conditions should be directed to:**

The Manager Prequalification

Major Projects

Public Works Division

Department of Housing and Public Works

**Telephone** 1800 072 621

**Email** [PQCRegistrar@epw.qld.gov.au](mailto:PQCRegistrar@epw.qld.gov.au)