

Queensland Government Procurement

Master Builders Position Paper

A. Introduction

Master Builders Queensland represents over 10,000 members across the state's building and construction industry. Our members are critical contributors to the state's infrastructure program, with the majority of government prequalified contractors being Master Builders members.

With \$59 billion of vital community assets such as hospitals, schools, and housing planned in 2025, it is essential that the Queensland government adopts a procurement model that enhances productivity, reduces unnecessary red tape, and ensures timely, cost-effective delivery. This will ultimately lead to a sustainable industry and provide value for money of government spend.

This paper outlines Master Builders' recommendations to strengthen Queensland's procurement framework, focusing on:

- A consistent and transparent project pipeline
- Fit-for-purpose contract terms and procurement processes
- Reducing duplicative and costly compliance requirements
- Ensuring fair, competitive access for regional and SME contractors
- Ensuring safe construction workplaces.

A strengthened Queensland procurement framework will lead to a sustainable industry and provide value for money of government spend.

B. Consistent & Transparent Pipeline

The starting point for an efficient government infrastructure program is developing and publishing a long term pipeline of projects, using a suite of agreed procurement models, implemented in a consistent manner by government agencies.

To support productivity in the delivery of this program, the development of a long term infrastructure pipeline of projects should:

- involve early industry consultation,
- be informed by regular consultation with Construction Skills Queensland and Build Skills Australia to ensure the pipeline of work is both deliverable within industry capacity and supports industry growth,
- be agreed by other levels of government, and
- be consistently procured and delivered across government departments.

By contrast, Queensland's decentralised procurement model lacks consistency across agencies (e.g. Health, Education, Transport). Added to this, the program of upcoming projects has become less certain and more short-term, making it difficult and inefficient for industry to respond to upcoming tender opportunities. This approach has led to:

- a lack of consistency in procurement methodologies between government departments,
- a lack of long-term and coordinated infrastructure planning,
- inefficiencies for industry to provide industry capacity to meet the infrastructure program of government, and
- lower productivity.

The purpose of the overarching procurement policy for delivery should be to smooth out capital budgets that minimises the peaks and troughs of government spend across multiple election cycles. This would enable industry to invest in capital equipment and skills for the long term benefit of Government and the industry. Greater consistency in procurement process, interpretation and methods across the Queensland government will deliver greater efficiency and certainty for industry, which will in turn lead to improved productivity.

Now that the government's review of Hospital Rescue Plan and 100 Day Review of Brisbane 2032 Olympic and Paralympic Games Infrastructure have been completed, a long-term infrastructure plan can be developed and published. We support a published rolling 10-year long term Infrastructure plan support by a detailed five-year infrastructure program which are both updated annually would provide the certainty industry is seeking.

Such a plan will allow government and industry to engage early in the planning process of each major project or program to gain industry's views on the best procurement process and that the work is both deliverable within industry capacity and supports industry growth.

Such a plan also allows industry to build necessary capability and secure the necessary resources needed to deliver the future pipeline.

A consideration of non-government (e.g. major private, utility, local and Federal government) projects in the development of the Queensland a 10-year infrastructure program is critical to ensure there is a sustainable and consistent pipeline of work matched to industry capacity.

RECOMMENDATIONS

1. Government to develop and publish a rolling 10-year long term Infrastructure plan support by a detailed five-year infrastructure program which provides a coordinated and sustainable pipeline of work for small, medium, and large contractors.
2. Government to regularly consult with industry, Construction Skills Queensland and Build Skills Australia to ensure the pipeline of work is both deliverable within industry capacity and supports industry growth.

C. Queensland Procurement Policy

The Queensland Procurement Policy (QPP) applies to all building projects procured by Queensland government across the state. Underpinning the QPP is a range of elements (such as the Best Practice Principles) and specific policies. The supporting elements and policies cover matters including safety, local benefits, training and compliance with workplace laws.

Master Builders supports the objectives set out in these policies.

The introduction of the Best Practice Principles (BPP) in 2018 (which were subsequently updated in 2021 and 2023) created an overlap of procurement policies which had the combined impact of restricting smaller companies from competing for projects above \$100m contract value, introducing a level of complexity that enabled and entrenched union power, and significantly increased construction cost and decreased productivity.

There is now an opportunity to review the policy framework so that the policy objectives of government can be retained and lifting standards across industry, while also improving productivity so that government projects can be delivered on time and on budget.

This is further explained below.

Best Practice Principles

Until recently, the Queensland procurement system contained additional requirements for major projects above \$100 million in contract value. These projects needed to comply with the Best Practice Industry Conditions (BPIC). The current government paused this requirement, including the requirement for head-contractors to engage only with BPIC-prequalified subcontractors, in November 2024.

The decision to pause BPIC has not diminished worker entitlements or conditions, nor has it reduced workplace safety.

While the BPICs were in place analysis shows up to 96 working days were lost in a calendar year because of a lack of flexibility in the use of rostered days off (RDOs) and working hours generally. If Best Practice Industry Conditions (BPICs) were exercised to their full extent, the cost to build a two-bedroom apartment blew out by 33 per cent – from \$870,000 to \$1.16m.¹

The Best Practice Principles for workplace health and safety systems and standards and for apprentices and trainees continue to remain in force and apply to projects of \$100 million or more (or declared projects). The detail of these principles is met by tenders demonstrating their ability to comply with the following:

- WHS Laws
- Local Benefits Test, and
- Queensland Government Building and Construction Training Policy.

¹ [QEAS, Economic Analysis of the Impact of the CFMEU Queensland EBA on Queensland apartment construction prices 2024](#)

Under the QPP, compliance with these provisions are required to be met by all tenders for government building projects. Notwithstanding the tenderers need to demonstrate how they will comply with the requirements, having them replicated in a BPP and pre-qualification is unnecessary duplication and red tape.

Currently only 12 builders are pre-qualified to deliver projects over \$100m. The prequalification requirement had the practical effect of requiring these head contractors (and their subcontractors) to enter a union Enterprise Agreement (EA). This served to act as a constraint on small and medium contractors, especially in the regions in competing for government tenders.

The combined effect of the BPP and BPIC model was to restrict competition, value for money and productivity.

Ethical Supplier Mandate

The Ethical Supplier Mandate (ESM) and Threshold (EST) 2024 aims to ensure tenders are operating ethically, lawfully, and in a socially responsible manner by assessing suppliers compliance in regard to:

- wage theft or underpayment
- superannuation non-compliance
- misclassification of workers (e.g., sham contracting)
- engaging unlicensed labour hire and
- non-compliance with WHS and Industrial laws.

The ESM and EST overlap existing State and Commonwealth legislation².

The sanctions applicable for breaching the ESM and EST are particularly punitive for relatively minor breaches, e.g. a twelve month ban on tendering.

The shortfalls of the current system are:

- It does not reward good supplier performance, only establishes a regime of penalising poor performance.
- It does not recognise specific characteristics of the building and construction industry.
- It does not explicitly seek to improve productivity in the building and construction industry.
- It adds a layer of regulatory duplication which could be rationalised and implemented through existing regulatory authorities and the prequalification ([PQC](#)) system.

One of the benefits of the ESM and EST is that it is supported by a compliance branch who audit suppliers.

Master Builders supports the policies and the standards government is intending to achieve through the Best Practice Principles and the Ethical Supplier Mandate and Thresholds. We believe these policies and standards are more effectively and efficiently achieved by removing the Best Practice Principles and the Ethical Supplier Mandate and instead reviewing existing policies and legislation.

² Fair Work Act 2009, Labour Licensing Act 2017 (Qld), Building Industry Fairness (Security of Payment) Act 2017 (Qld), Modern Slavery Act 2018.

This would be achieved by reviewing the fundamentals of the following Queensland government policies and legislation.

- Workplace Health and Safety Best Practices
- Building and Construction Training Policy
- Local Benefits Test
- Labour Licensing Act 2017 (QLD)
- Building Industry Fairness (Security of Payment) Act 2017 (Qld)
- IEO (Indigenous Economic Opportunities) Plan.

In our view industrial relations should be dealt with in a detailed and specific manner to ensure productivity and efficiency form part of the government procurement process.

RECOMMENDATIONS

3. Restore productivity on Queensland government building projects by permanently repealing Best Practice Industry Conditions (BPIC) for all Queensland government funded projects.
4. In consultation with industry, conduct a detailed review of all policies and provisions under the Queensland Procurement Policy as they relate to building and construction to ensure they improve productivity.
5. Replace the Best Practice Principles (BPP) and its prequalification requirements and the Ethical Supplier Mandate and Threshold with a new mechanism incorporated into a revamped prequalification system that minimises third party interference in the management of government projects and pays particular attention to the management of industrial relations on government projects.
6. Give weight in bid evaluation based on capability and past performance on Government contracts in Queensland and elsewhere to reward consistently high-performing contractors with the opportunity to win repeat work.

D. Procurement Process and Contract Terms

Contract Type

Government utilises a range of standard procurement methods and contracts depending on the value and type of project. It is important that government remain open to select contracts from the range of available standard form contracts, using the most appropriate standard contract for the project.

The Brisbane 2032 Olympic and Paralympic Games Infrastructure 100 Day Review Report has made some criticisms of the Managing Contractor model and stated that the “Queensland Government supports a Delivery Partner model to ensure projects will be delivered on time for the games”.

Historically in Queensland, the majority of high-risk government projects, have been successfully delivered using the Queensland government’s standard two-stage collaborative contract model. This form of contract is appropriate, particularly on large complex construction projects typical of those we will see coming in the Olympic Games program.

To improve consistency across government agencies and assist industry, the government has recently published a *Guide to Collaborative Contracting (Two Stage Design and Construct Contracts)*.

Guidelines for the use of design and contracts would also assist and should state a minimum specification identifying a minimum of 50 per cent detail provided in the tender documents. These guidelines should also clear on the principal's project requirements.

Further, where any standard form contract is used, amendments to standard terms should be minimal and only made where a high degree of justification is made to support the need for variation from the standard. Where variations are made, these should be highlighted to contractors in the request for tender documents.

RECOMMENDATIONS

7. Government maintain a suite of standard form contracts and utilise the most appropriate contract type for each project, based on early engagement with industry.
8. Government adopts greater consistency in procurement process, interpretation and methods, across government departments, and develop guidelines to assist industry and government departments, for example, the *Two Stage Design and Construct Contracts – Guide to Collaborative Contracting*.
9. Government to hold early collaborative workshops for major projects with project teams and then hold quarterly review meetings to monitor achievement of any social procurement measures (e.g. apprentices, indigenous workers etc).
10. Guidelines for the use of design and construct contracts be prepared which state a minimum specification identifying a minimum of 50% detail provided in the tender documents. These guidelines should also clear on the principal's project requirements. Digital Engineering should be adopted and utilised by the principal as part of the early design requirements.
11. Government maintain and adhere to a suite of standard form contracts, only amending terms in very limited circumstances and where justified. Where variations are made, these should be highlighted to contractors in the request for tender documents.

Appropriate Risk Allocation

Sustainable businesses need to be paid enough to cover all expenses and overheads and make sufficient profit to sustain their businesses in the face of a very challenging environment. Builders and subcontractors need adequate cashflow, certainty of overhead costs, and predictable labour and material costs.

Some standard government contract clauses are placing too much risk on contractors, which cannot be adequately priced up front and managed by the contractor. These practices drive a 'race to the bottom' resulting in insufficient contingency, cash flow, and profit.

Contract conditions should be fair and reasonable and appropriately apportion risk between the client and contractor. That means recognising that not all risks are capable of being fully assessed, priced, managed or absorbed by the private sector, and that such risks must be managed collaboratively – including risks related to utilities, planning approvals, any time lost to industrial action, termination for convenience, unrealistic time bars, specific exclusions on reasonable extension of time (EOT) requests and latent conditions.

RECOMMENDATIONS

12. Adopt fair and collaborative risk allocation practices by assigning risks to the parties best able to manage them and seek industry input early to identify hard-to-forecast risks, improve risk-sharing, and enhance value for money and industry sustainability.
13. Government contracts should permit extension of time for any lost time due to industrial relations, utilities delays, incomplete or design change.
14. Re-instatement of the Public works committee that was examining “Unfair Contract Terms”. Such terms should be identified and removed or amended in government contract Support industry standard contracts and ask for variations to be justification
15. Government contracts should not require contractors to indemnify the State government for third party claims.
16. Review security clauses of standard government contracts to require lower security and staged payment of security across contract (instead of upfront).
17. Provide regular information briefings for industry, focusing on smaller contractors, on the key terms and operation of standard contracts.

Tendering Requirements

A simple and streamlined tendering process can reduce time and cost associated with tendering. Which flows through to greater certainty on price, value for money and capacity in market.

The current model requires duplication of tendering information. This information can be sourced or referenced by other government departments, for example WHS record or notification of incidents are coordinated by the Office of Industrial Relations.

Feedback from industry has consistently been the schedule and timelines associated with going to market for building projects has not allowed for an adequate review and understanding of the project as well as the ability to adequately test the market on pricing. Improved planning around the scheduling of opening tenders, the timelines and response to tenders would improve value for money for government.

RECOMMENDATIONS

18. Government should ensure the adequacy and sufficiency of the budget allowance stipulated for the delivery of all of the project requirements, before commencing the tender process.
19. Do not expect tenders to hold tender prices for unreasonably long time periods (not longer than 30 days).
20. Review and streamline internal government approval processes to reduce any unnecessary delays. Specifically award tenders on advised award time or allow tenders to reprice and review programs.
21. Streamline tender processes by reusing existing government-held contractor data (e.g. WHS records)
22. Notify unsuccessful bidders at the earliest possible time, pending contractual close with the preferred bidder.

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