



National Code and Guidelines Compliance for Private Work

The National Code sets minimum standards that businesses must meet to be eligible for certain Australian Government building and construction work.

The National Code Implementation Guidelines provide supporting detail on compliance requirements.

See other ABCC fact sheets to determine when the National Code applies and which set of Guidelines to use.

This fact sheet is relevant to projects complying with the June 2006 Guidelines.

WHAT ARE 'PRIVATELY FUNDED PROJECTS'?

The National Code of Practice for the Construction Industry (National Code) and the Australian Government Implementation Guidelines for the National Code (Guidelines) apply to Australian building projects funded by the Australian Government according to the following funding values:

- **directly funded by the Australian Government** – all building and construction work where the Australian Government has direct financial and administrative involvement. This applies irrespective of the total value of the project.
- **indirectly funded by the Australian Government** – building and construction work where the Australian Government contributes:
 - at least \$5 million, and the funding represents at least 50 per cent of the total construction project value or
 - \$10 million or more, irrespective of the proportion the Australian Government funding represents of the total construction project value.

'Privately funded construction projects' are all projects that do not meet the criteria for Australian Government directly funded or indirectly funded projects as defined above.

Also see *the Guidelines: Section 2 – Application and Scope*.

WHEN DO THE NATIONAL CODE AND GUIDELINES APPLY TO PRIVATELY FUNDED PROJECTS?

From the date that a party first lodges an expression of interest (EOI) or tender for Australian Government construction work under the National Code and Guidelines, it **must also apply the National Code and Guidelines to new privately funded projects**. This also applies to a company's **related entities**.

Also see:

- 'National Code and Guidelines Compliance for Related Entities' fact sheet
- Section 2.6 of the Guidelines.

Parties undertaking Australian Government funded construction work **do not** have to apply the National Code and Guidelines to privately funded projects which **commenced prior to the first time they lodge an EOI or tender** for an Australian Government funded project covered by the National Code and Guidelines.

DO ALL CONTRACTORS ON PRIVATELY FUNDED PROJECTS NEED TO BE NATIONAL CODE COMPLIANT?

Not all contractors may need to be National Code compliant on privately funded projects. The requirement to comply with the National Code and Guidelines will depend on whether they have tendered for Australian Government work.

A subcontractor's National Code compliance status on a privately funded project does not affect the head contractor's National Code status.

Increasingly, head contractors are requiring National Code compliance on all of their privately funded projects. In these circumstances, this is a contractual matter between the head contractor and their subcontractors.

WHO IS RESPONSIBLE FOR ENSURING NATIONAL CODE COMPLIANCE?

It is the responsibility of each tenderer to ensure their own workplace arrangements and behaviour is National Code compliant on privately funded projects.

Tenderers required to apply the National Code and Guidelines on privately funded projects are not required to ensure National Code compliance of their subcontractors on these projects.

HOW THE NATIONAL CODE AND GUIDELINES ARE APPLIED TO PRIVATELY FUNDED PROJECTS BEFORE AND AFTER 1 NOVEMBER 2005

There are different guidelines for projects where tenders were made for Australian Government work before or after 1 November 2005.

Before 1 November 2005

Government funded project

The tenderer must comply with the Guidelines, issued December 2003 on any Government funded projects where tenders or Expression of Interest (EOI) occurs before 1 November 2005.

Privately funded project

The tenderer does not need to be National Code compliant on privately funded projects.

On or after 1 November 2005

Government funded project

The tenderer must comply with the relevant Guidelines from the table below.

Date of EOI or Tender	Relevant Guidelines
On or after 1 August 2009	August 2009 Guidelines (purple cover)
From 1 November 2005 to 31 July 2009	June 2006 Guidelines (blue cover)

Privately funded project

The tenderer must be National Code compliant on private projects where the tender or EOI occurs **on or after the tender date** for the Government funded project after 1 November 2005. However, the National Code and Guidelines do not apply to any private projects where tender or EOI occurred **before the date of tender or EOI** for the Government funded project.

FURTHER INFORMATION

To make an enquiry or obtain copies of the National Code and Guidelines, fact sheets and other reference material, contact:

The Office of the Australian Building and Construction Commissioner

- Hotline: 1800 003 338
- Website: www.abcc.gov.au
- Email: enquiry@abcc.gov.au

The Department of Education, Employment and Workplace Relations

- National Code Mailbox: building@deewr.gov.au
- National Code Hotline: 1300 731 293

For an assessment of workplace arrangements for National Code compliance, visit

- Code Assessments Online: www.deewr.gov.au/building



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THE NATIONAL CODE COMPLIANCE CONTRACTUAL CHAIN

AUSTRALIAN GOVERNMENT FUNDED PROJECT

CONTRACTOR

The contractor is required to ensure all subcontractors are National Code compliant on Australian Government funded projects.

SUBCONTRACTOR A

The National Code compliance of Subcontractor A does affect the Head Contractor's National Code compliance on the Australian Government project. Subcontractor A must comply with the National Code and Guidelines on all private projects.

PRIVATELY FUNDED PROJECT

CONTRACTOR

The contractor is subject to the National Code and Guidelines but is not required to ensure all subcontractors on the privately funded project are National Code compliant.

SUBCONTRACTOR A

National Code compliance obligations carry over to this privately funded project as Subcontractor A has tendered for or undertaken Australian Government construction work.

SUBCONTRACTOR B

Subcontractor B has not worked on an Australian Government funded project and therefore does not have to be National Code compliant.

The head contractor is not responsible for ensuring subcontractors meet the National Code obligations. Subcontractors who are non-compliant do not affect the head contractor's compliant status.