

Compliance with the *Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (the Guidelines)*

Role of principal contractors

Principal contractors that express interest in, or tender for NSW government work from 1 July 2013 must comply with the Guidelines on that project and all subsequent public and private projects.

At the tender stage

When tendering for NSW publicly funded building and construction work, a principal contractor must submit documents which include the following:

- a signed compliance schedule,
- Workplace Relations Management Plan (**WRMP**), where the NSW Government department or public sector body contribution (directly or indirectly) to a project is \$10 million or more or is at least \$5 million and represents at least 50% of the total construction project value. A *Model Workplace Relations Management Plan* is available on the NSW Industrial Relations website to assist contractors. For further information, also see the Construction Compliance Unit's fact sheet on the WRMP.
- a Work Health Safety Management Plan (**WHSMP**) or Site Specific Safety Management Plan (**SSSMP**).

During the project stage

During the NSW project, a principal contractor must:

- act in accordance with its tender response
- ensure on-site practices and procedures are in place which comply with the Guidelines, their WHSMP/SSSMP and WRMP (if applicable)
- ensure that their on-site contractors on publicly funded projects comply with the Guidelines and the principal contractor's WRMP (if applicable)
- comply with any reasonable request for access and information from the Construction Compliance Unit (**CCU**)
- report all suspected breaches of the Guidelines to the CCU and the client agency within 24 hours of becoming aware of the suspected breach
- ensure on-site contractors allow the CCU to monitor and investigate compliance by:
 - inspecting any work, material, machinery, appliance, article or facility
 - inspecting and copying any record relevant to the project
 - interviewing any person
- cooperate with any CCU investigation process pertaining to compliance with the NSW Code and Guidelines

Model Tender and contract Documentation is available on the NSW Industrial Relations website to assist contractors ensure compliance through their contract management procedures.

Compliance with the Guidelines

The CCU conducts investigations where there are alleged breaches, compliance checks and audits on building and construction projects across NSW.

Audits demonstrate whether the principal contractor is compliant or non-compliant.

Depending on the nature of a breach, principal contractors may be given an opportunity to rectify breaches of the Guidelines within a reasonable amount of time.

Repeated breaches may lead to sanctions.

The goal is industry reform, not sanctions. Reporting breaches demonstrates a commitment to compliance with the Guidelines and to industry reform, and promotes a safe, productive and harmonious work site.

Breaches and Sanctions

Sanctions imposed for proven breaches of the Guidelines will depend on the nature of the breach.

Sanctions may include, but are not limited to:

- formal warning that a further breach will lead to severe sanctions
- referral of a complaint to the relevant industry body for assessment against its code of conduct
- reduction in tendering opportunities
- reporting the breach to the appropriate statutory body
- publicising the breach and the identity of the party.

For further information

Phone: 131 628
CCU mailbox: ccu@industrialrelations.nsw.gov.au
Website: www.industrialrelations.nsw.gov.au