



Australian Government

**Department of Education, Employment
and Workplace Relations**

Fact sheet

Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry August 2009 (Guidelines).

A Guide to the Code Monitoring Group and Sanctions

The National Code of Practice for the Construction Industry (Code) and Guidelines set out the responsibilities of all parties on building and construction projects funded by the Australian Government. The Guidelines were developed to assist Government agencies and interested parties to implement the Code.



The Code Monitoring Group

The Code Monitoring Group (CMG) is an inter-agency body responsible for considering issues arising under the Code and Guidelines. It consists of senior representatives from the Department of Finance and Deregulation, the Department of Education, Employment and Workplace Relations (DEEWR), the Office of the Federal Safety Commissioner, the Department of Prime Minister and Cabinet, the Department of Defence, and the Department of Infrastructure, Transport, Regional Development and Local Government. The Office of the Australian Building and Construction Commissioner (ABCC) and the Office of the Fair Work Ombudsman are also represented on the CMG, as non-voting members.

The CMG sets the strategic direction for the Code and Guidelines related education and compliance activities of DEEWR and the ABCC. The group reviews reports of alleged breaches of the Code and Guidelines and may recommend sanctions for breaches of the Code and Guidelines (Section 7.2 of the Guidelines refers).



CMG Processes

The CMG is advised of alleged breaches of the Code and Guidelines by reporting from agencies, funding recipients, companies or individuals and through investigations and audits by the ABCC (Sections 5.1.1 and 5.4.1 of the Guidelines refers).

When an alleged breach of the Code and Guidelines is identified or reported, it may be referred to the ABCC, which will investigate the allegation. The ABCC also initiate audits of projects and identify alleged breaches that need to be resolved.

If alleged breaches are identified during the ABCC Code audits or inspections, an ABCC report will be provided to the respective client or agency/funding recipient and the organisation to which the alleged breach is attributed. A copy of the ABCC report will also be presented to the CMG Secretariat.

The CMG determines whether breaches of the Code and Guidelines have occurred based on the evidence provided, decides on possible sanctions and makes recommendations to the Minister for Employment and Workplace Relations about whether a preclusion sanction should be imposed.

**Information Hotline:
1300 731 293**

Entities alleged to be in breach of the Code and Guidelines have an opportunity to respond to the allegations directly to the CMG prior to the CMG reaching a decision.

The CMG is required to follow the procedural steps which are outlined in the document '*Procedural steps for considering breaches of the National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines, August 2009*'. This document can be found at deewr.gov.au/building.



Sanctions

Sanctions are considered by the CMG when a party has failed to meet its obligations under the Code and Guidelines, and the breach is not voluntarily rectified to the satisfaction of the CMG (Section 8.2.1 of the Guidelines refers). Alleged breaches may also be reported to an appropriate statutory body or law enforcement agency. Sanctions may be considered for all work covered by the Code and Guidelines, including privately funded projects (Section 3.4.2 of the Guidelines refers).

Government Agencies, project managers, consultants and contractors must not accept a tender or expression of interest or engage a contractor on Government funded projects during the period of a sanction, where that sanction is in the form of preclusion from tendering opportunities.

Details of contractors who have been sanctioned under the Code and Guidelines are available at deewr.gov.au/building.

A sanction can take the form of, but is not limited to, a formal warning, preclusion from, or reduction in tendering opportunities for Australian Government funded construction work.

Formal warning

The CMG may issue a *formal warning* to an entity for first time or minor breaches of the Code and Guidelines. The formal warning states that any future breaches may lead to greater sanctions such as preclusion from tendering for Australian Government funded construction work.

Reduction

A *reduction* is a sanction whereby a business may be excluded from submitting tenders or expressions of interest (EOI) for some Government funded works, eg works over a certain value or works in a specified area or region.

The details of a sanction would be specified at the time the sanction is imposed and made available on the sanctions web page.

Preclusion

The CMG will report breaches to relevant ministers and may recommend that a party be precluded from tendering for a fixed period of time (up to 6 months) where a business is found to be in breach of the Code and Guidelines.

During this period tenders or EOI cannot be accepted from businesses where the sanction precludes it from tendering for Australian Government funded construction work during their sanction period.

If a tender or EOI is lodged before the sanction starts they may still be considered. However, Government agencies and businesses are encouraged to consider a party's compliance with the Code and Guidelines when assessing tenders.



Further information

Section 8 of the Guidelines outlines the compliance and monitoring provisions of the Code and Guidelines.

Queries about the Code and Guidelines can be directed to:

- the National Code Hotline **1300 731 293**, or
- the National Code Mailbox building@deewr.gov.au

The Code and Guidelines documents are available from deewr.gov.au/building.

To contact the CMG:

CMG Secretariat
Department of Education, Employment and Workplace Relations
C10MT3
GPO Box 9879
CANBERRA ACT 2601

To contact the ABCC:

Phone **1800 003 338**
Website abcc.gov.au