



**Australian Government**  
**Australian Building and  
Construction Commission**

Head contractors and subcontractors covered by the Building Code 2013 on a Commonwealth funded building project should provide this information statement to subcontractors when calling for or receiving expressions of interest or tenders on or after 2 December 2016 to inform them they will become code covered entities.

This information statement should be provided in place of using the Building Code 2013 or Code for the Tendering and Performance of Building Work 2016 model clauses.

Head contractors and subcontractors are covered by the Building Code 2013 on a Commonwealth funded building project if they submitted a tender for building work in relation to that project prior to 2 December 2016.

## **ABCC INFORMATION STATEMENT TO SUBCONTRACTORS**

By submitting an expression of interest or tender (howsoever described) for building work for this project on or after 2 December 2016, you will become subject to the Code for the Tendering and Performance of Building Work 2016, which is available at <https://www.legislation.gov.au/Details/F2016L01859> (Building Code 2016), in other words a code covered entity. Once a building contractor is subject to the Building Code 2016, it and its related entities must comply with the Building Code 2016 on all new projects for building work described in Schedule 1 of the Building Code 2016, including projects that are privately funded.

The head contractor on this project is subject to the Building Code 2013 and is not a code covered entity under the Building Code 2016 in relation to this project. The head contractor will therefore not monitor your compliance with the Building Code 2016 in relation to building work for this project. The Australian Building and Construction Commission (ABCC) will monitor your compliance with the Building Code 2016.

You are not required to provide an ABCC Letter of Compliance to the head contractor to demonstrate your eligibility to tender with either the Building Code 2013 or the Building Code 2016 in relation to building work for this project.

### **Subcontracting Requirements**

If you are awarded building work for this project and subsequently engage subcontractors to undertake any of this building work you are required to comply with section 8 of the Building Code 2016, including ensuring those subcontractors meet the eligibility requirements set out in section 23 at the time of lodging any expression of interest or tender (howsoever described) for that building work. Model clauses and tender documentation are available on the ABCC website which can be used when engaging subcontractors for this project ([Model Clause Type C](#)).

### **General Requirements**

The Building Code 2016's requirements for code covered entities include these matters:

- compliance with certain laws, including designated building laws, work health and safety laws, the *Competition and Consumer Act 2010* and the *Migration Act 1958*
- security of payment compliance
- unregistered agreements
- prohibited content for enterprise agreements made since 2 December 2016
- sham contracting
- collusive practices
- above-entitlements payments
- engagement of non-citizens or non-residents
- protecting freedom of association
- right of entry
- reporting and notification requirements and
- managing drug and alcohol issues in the workplace.

Further information is available on the ABCC's website at [www.abcc.gov.au](http://www.abcc.gov.au).

\* This information statement should only be provided to subcontractors that could be required to comply with the Building Code 2016 by section 34 of the *Building and Construction Industry (Improving Productivity) Act 2016* (the Act). Section 34(3) of the Act states that the Building Code 2016 cannot require a person to comply with the code in respect of particular building work (the current work) unless:

- the person is a building contractor (as defined in the Act) that is a constitutional corporation
- the person is a building industry participant (as defined in the Act) and the current work is to be carried out in a Territory or Commonwealth place or
- the person is the Commonwealth or a Commonwealth authority.