



Compliance with the National Code of Practice for the Construction Industry

Declaration of Compliance with the National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines, August 2009.

[Note to Applicants: Please note that you must be compliant with the National Code of Practice for the Construction Industry in order to sign a Funding Agreement.]

Name of Australian Government project:

Name of applicant:

ABN:

ACN:

Where the applicant or ARENA considers that construction activity (as defined in the National Code of Practice for the Construction Industry ("Code") and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, August 2009 ("Implementation Guidelines")) will be undertaken by it or any of its related entities, subcontractors and consultants if selected to undertake its ACRE project under the Program:

1. The applicant confirms that it has complied with the Code and the Implementation Guidelines, in preparing this full application.
2. The applicant undertakes that it complies with Code and Implementation Guidelines, and has complied with the Code and Implementation Guidelines from the time of lodgement of this proposal, and that it will require compliance by its related entities (see section 3.5 of the Implementation Guidelines).
3. The applicant undertakes to ensure compliance from all subcontractors and consultants engaged on this project, should it be a successful applicant. All contracts with subcontractors and consultants must expressly require compliance with the Code and Implementation Guidelines.
4. The applicant agrees that it and its subcontractors and its related entities will provide the Australian Renewable Energy Agency (ARENA) or any person authorised by either ARENA or the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, with access to:
 - (a) inspect any work, material, machinery, appliance, article or facility;
 - (b) inspect and copy any record relevant to the project the subject of the Funding Agreement;
 - (c) interview any person; and
 - (d) any document requested under the Funding Agreement. The document must be provided within the period specified either in person, by fax or by post, as is necessary to demonstrate its compliance with the Code and Implementation Guidelines.
5. The applicant acknowledges that it is aware that the Commonwealth or Minister for Employment and Workplace Relations may impose a sanction on an applicant or subcontractor that does not comply with the Code and Implementation Guidelines (see section 8.2 of the Implementation Guidelines).

The sanction imposed may include but is not limited to:

- (a) the reporting of the breach to an appropriate statutory body or law enforcement agency (if there is evidence that the breach may also be a breach of a Commonwealth or state



- law), or industry association;
- (b) issuing of a formal warning that future breaches may lead to more significant sanctions;
 - (c) preclusion from applying for or tendering for any Commonwealth funded building and construction work for a specified period;
 - (d) communication of sanction details to all Commonwealth agencies to ensure a 'whole-of-Government' approach;
 - (e) publication of details of the breach and identification of the party committing the breach; and
 - (f) a reduction in the number of funding or tendering opportunities that are given.
6. The applicant is to select which of the following clauses in italics is appropriate and delete the remaining clause:
- a) *The applicant hereby gives its consent, and confirms that its related entities give their consent, to disclosure by the Commonwealth, its agencies (including ARENA) and ministers, of information concerning the applicant's and its related entities' compliance with the Code and Implementation Guidelines and whether or not a sanction has been imposed on the applicant and/or related entity of the applicant, for the exercise of their statutory and portfolio responsibilities (the Purposes).*
- OR
- b) *The applicant has previously given its consent, and confirms that its related entities have previously given their consent, to disclosure by the Commonwealth, its agencies (including ARENA) and ministers, of information concerning the applicant's and its related entities' compliance with the Code and Implementation Guidelines and whether or not a sanction has been imposed on the applicant and/or a related entity of the applicant for the exercise of their statutory and portfolio responsibilities (the Purposes), and confirms that the applicant and its related entities have not revoked that consent.*
7. The applicant has obtained or will obtain the consent of each subcontractor and consultant proposed in its full application to disclosure by the Commonwealth, its agencies (including ARENA) and ministers, of information concerning the proposed subcontractors, compliance with the Code and Implementation Guidelines and whether or not a sanction has been imposed on any proposed subcontractor, for the Purposes.
8. The applicant acknowledges that the consents provided in clause 6 are not limited to this EOI or application process as the applicant is expected to comply with the Code in future projects.
9. The applicant will:
- (a) Describe how the applicant has complied with the Code and Implementation Guidelines in the past (if the applicant has undertaken Australian Government funded construction work in the past) and how it will comply if successful. For example, the applicant will:
 - (i) comply with the Code and Implementation Guidelines;
 - (ii) require compliance with the Code and Implementation Guidelines from all subcontractors before doing business with them;
 - (iii) apply the Code and Implementation Guidelines to privately funded projects that commence after they first lodge an application for Australian Government projects or funding;
 - (iv) ensure that contractual documents allow for a person occupying a position in the Office of the Australian Building and Construction Commissioner to access sites,



- documents and personnel to monitor compliance with the Code and Implementation Guidelines, including privately funded construction sites;
- (v) ensure project managers or head contractors establish appropriate processes to ensure freedom of association;
 - (vi) ensure there is a work health safety and rehabilitation (WHS&R) plan for the project;
 - (vii) respond to requests for information concerning Code-related matters made on behalf of Code Monitoring Group (CMG);
 - (viii) where practicable, ensure contractors or subcontractors initiate voluntary remedial action aimed at rectifying non-compliant behaviour when it is drawn to their attention;
 - (ix) ensure that CMG secretariat is notified of any alleged breaches, voluntary remedial action taken or other Code-related matters within 21 days of the party becoming aware of the alleged breach; and
 - (x) be aware that and ensure that sanctions applied under the Code are enforced including the exclusion of identified parties from work opportunities in accordance with decisions advised by CMG.
- (b) Where the applicant proposes to subcontract an element of the work, the applicant is either to:
- (i) provide the information detailed at paragraph 9(a) in relation to each subcontractor; or
 - (ii) detail how the applicant intends to ensure compliance with the Code and Implementation Guidelines by each subcontractor.
- (c) Ensure that where threatened or actual industrial action occurs on a project, contractors, subcontractors, consultants or project managers report such action to ARENA.

Privately Funded Projects:

10. The applicant declares that, in respect to privately funded projects:

- (a) The applicant and its related entities will comply with the Code and Implementation Guidelines on all the applicant's and its related entities' future privately funded projects.
- (b) The applicant must maintain adequate records of compliance with the Code and Implementation Guidelines by the applicant, its subcontractors and related entities.
- (c) The applicant agrees that it and any of its related entities will provide ARENA and the Commonwealth or any person authorised by either ARENA or by the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, with access to:
 - (i) inspect any work, material, machinery, appliance, article or facility;
 - (ii) inspect and copy any record relevant to the project; and
 - (iii) interview any person,as is necessary to allow validation of its compliance with the Code and Implementation Guidelines.
- (d) The applicant agrees that the applicant and its related entities will agree to a request from ARENA or the Commonwealth or any person authorised by either ARENA or the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, to produce a specified document within a specified period, in person, by fax or by post.



- (e) The applicant will ensure that the applicant and its related entities permit ARENA, the Commonwealth or any person authorised by either ARENA or the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, to have access to records and to the related entities' and subcontractors' premises (to inspect and copy records), as is necessary to ensure that the subcontractors and related entities are complying with the Code and Implementation Guidelines.

Describe how the applicant and its related entities have complied with the Code and Implementation Guidelines in the past (if the applicant has undertaken Australian Government funded construction work in the past) and how it will comply if successful:

Where the applicant proposes to subcontract an element of the work, the applicant will either provide the above information to each subcontractor, or describe how the applicant intends to ensure compliance with the Code and Implementation Guidelines by each subcontractor.

Signature of the person making the declaration:

Print Name:.....Signature:.....
 (1)

Signed at on of 2010,

Before me,

Print Name.....Signature:.....
 (2)

..... (3)

- (1) Signature of the person making the undertaking.
- (2) Signature of witness.
- (3) Print name, address and occupation of witness.