



## Funding Entity

### Western Australian Building and Construction Industry Code of Conduct 2016 (BCI Code)

Building Contractors who tender for and enter into contracts for State Building Work must comply with the BCI Code. Building Contractors must comply with the BCI Code on private projects commenced while engaged on State Building Work. The requirement for a Building Contractor to comply with the BCI Code arises under the Tender Conditions of a tender process relating to State Building Work or the terms of a contract for State Building Work.

On 28 December 2016, a Premier's Circular was issued to Funding Entities advising that it was imperative that Government agencies tendering for State Building Works include the obligation to comply with the BCI Code within requests for tender and through the contractual process.

#### Definition of a Funding Entity

The BCI Code provides that each of the following is a Funding Entity:

1. a Department of the State of Western Australia;
2. a Statutory Authority under the *Financial Management Act 2006* (WA); and
3. a Specified Schedule 1 Entity defined as:
  - a. any port authority established under the *Port Authorities Act 1999* (WA);
  - b. a body established by or under section 4 of the *Water Corporation Act 1995* (WA);
  - c. a body established by section 4(1) of the *Electricity Corporations Act 2005* (WA); and
  - d. the Western Australian Land Authority established by the *Western Australian Land Authority Act 1992* (WA).

#### Definition of State Building Work

The BCI Code defines State Building Work as follows:

1. Building Work that is being undertaken by or on behalf of a Funding Entity.
2. Building Work that is indirectly funded by the State by a grant or other program in circumstances in which funding for the Building Work is an explicit component of the grant or program.
3. Building Work:
  - a. for which the State provides assistance in advance of the commencement of construction; and
  - b. which has an identified capital component.

#### Funding Entity responsibilities

Funding Entities are required to do the following:

- Make compliance with the BCI Code a condition of tender for State Building Work that is being carried out for or on behalf of a Funding Entity.
- Ensure that funding agreements and associated documentation include the requirement that Building Contractors apply the BCI Code. This includes the requirement for Building Contractors to ensure that all subcontractors are required to comply with the BCI Code as a condition of their subcontracts.
- Ensure compliance with the BCI Code forms part of any contract for State Building Work.
- Consult with in-house counsel or the State Solicitor's Office when drafting clauses for tender and contract documentation about the BCI Code. The Building and Construction Code Monitoring Unit can make available upon request Model Clauses for Funding Entities which have been prepared by the State Solicitor's Office.





This fact sheet should be read in conjunction with the BCI Code and information provided in the Implementation Guidelines.

For further information please visit the Building and Construction Code Monitoring Unit website at:  
[www.commerce.wa.gov.au/bccmu](http://www.commerce.wa.gov.au/bccmu)



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