



NSW Nation Building and Jobs Plan Taskforce

Nation Building – Economic Stimulus Plan

Delivery of Construction Projects

Introduction

In February 2009, the Commonwealth Government announced the \$42 billion *Nation Building – Economic Stimulus Plan* which includes funding for building and maintenance of schools and social housing. The program is designed to support employment and growth and make Australia more resilient in the current global financial crisis.

For NSW this equates to the construction of 5,875 new social housing homes and the expenditure of \$3.4 billion for construction and upgrade works across all NSW public schools over a two year period.

The Premier established the NSW Nation Building and Jobs Plan Taskforce to plan and oversee the delivery of the Plan in NSW, particularly in the social housing and public education sectors so that jobs are secure in the building and construction and related industries.

Strict project delivery timelines have been issued in order for NSW to be eligible for funds from the Commonwealth Government.

This policy details the principles and procedures in place to deal with workplace disputes for *Nation Building* projects, in particular:

- the Primary Schools for the 21st Century and Science and Language Centres for 21st Century Secondary Schools components of the *Building the Education Revolution* program; and
- the New Social Housing projects undertaken by Housing NSW which contain greater than 12 units and three or more stories.

Key Principles

The Taskforce will be pro-active in ensuring that there are no unresolved industrial, safety or other issues which will compromise delivery of the *Nation Building – Economic Stimulus Plan*.

The Taskforce recognises that there are specific challenges in implementing a program of this size. In particular, the need to ensure that systems for payment, safety, dispute resolution and access to sites are working effectively and rapidly is of key importance.

The Taskforce will therefore facilitate resolution of any dispute concerning right of entry issues, the payment of statutory and other entitlements and the recording of or access to on-site registers where the parties have complied with the relevant dispute resolution procedures but there has been no resolution and there is a risk of unacceptable delay to the project.

This policy does not change the rights of employers, employees or unions under any federal or state legislation.

The following provisions apply.

1. RIGHT OF ENTRY

Right of entry for unions wishing to enter worksites is determined by a number of State and Commonwealth laws. In particular, the following Acts are important:

- *Fair Work Act 2009 (Commonwealth)*;
- *Industrial Relations Act 1996 (NSW)*;
- *Occupational Health and Safety Act 2000 No 40 (NSW)* and, for school projects;
- *Children's and Young Persons (Care and Protection) Act 1998 (NSW)*.

2. DISPUTE RESOLUTION

Dispute Resolution Process

Employers, employees and unions are required to comply with the applicable dispute resolution procedures contained in their industrial instruments.

The following dispute resolution procedures are considered appropriate:

- A. The employee(s) shall notify their supervisor(s) of the grievance or dispute and the remedy sought, in writing.
- B. A meeting shall be held between the employee(s) and the supervisor(s) to discuss the grievance or dispute and the remedy sought. Subject to advance notice being given to an employer, the Taskforce or the employer shall provide an appropriate area where a union official can hold discussions with an employee or employees regarding the grievance or dispute. Such discussions will be held in non-work time unless otherwise agreed by the employer in advance.
- C. If the matter remains unresolved, the employee(s) may request the matter be referred to the applicable construction manager(s) for discussion. A further meeting between the parties shall be held as soon as practicable.
- D. If the matter remains unresolved, the employee(s) may request the matter be referred to senior management of the employer.
- E. If the matter remains unresolved, the employer shall provide the employee(s) with a written response. The response shall include the reasons for not implementing any proposed remedy.
- F. If discussions fail to resolve the dispute in accordance with the above, the matter shall be referred to either the Industrial Relations Commission of NSW or other

person agreed to by the parties as the agreed dispute resolution provider, for conciliation or mediation.

- G. If the parties to the dispute fail to resolve the dispute in accordance with (6) above, either party may request a person agreed by the parties to determine the matter by arbitration by either the Industrial Relations Commission of NSW or other person agreed to by the parties as the agreed dispute resolution provider. The parties agree to act in accordance with the arbitrated outcome, subject to any appeal rights agreed to prior to seeking the arbitration.

3. STATUTORY AND OTHER ENTITLEMENTS

Best practice for contractors is to check monthly payments of sub contractors with respect to employee entitlements so as to ensure compliance with relevant award, enterprise agreements or other legislative obligations, and check that the contractors have not introduced unlawful arrangements such as 'all-in' payments or 'cash-in-hand' payments, (i.e. payments designed to avoid tax and other statutory obligations and sham subcontract arrangements).

Where such practices are identified the contractor should take immediate steps to ensure that any such arrangements are rectified and that any employee affected by any such arrangement receives all statutory and other entitlements.

Each contractor engaged on site should be specifically advised and monitored by the principal contractor with respect to payroll tax requirements and compliance with their lawful security of payment obligations. In accordance with Section 127 of the Industrial Relations Act 1996, Section 175(b) of the Worker's Compensation Act 1987 or Part 5B s1G-31J of the Payroll Tax Act 1971 where the employer engages a sub-contractor(s) to work on-site it will obtain all applicable sub-contractors Statements regarding workers' compensation, payroll tax and remuneration. A copy of these statements should be made available to the employer's workplace representative, on request, who shall advise the employer if they believe the information which has been provided by the sub-contractor is not correct.

Any dispute concerning non-compliance shall be resolved in accordance with the dispute settling process outlined in Section 2.

4. ON-SITE REGISTER

Contractors must comply with all their legal obligations with regard to on-site registers of sub-contractors and employees working on a site. The following arrangements are considered appropriate.

The Register shall contain the following information about contractors -

- Registered business name and address of employer and ABN number.
- Workers compensation policy number, underwriter and currency certificate
- Rehabilitation provider
- Public liability policy number, underwriter and currency certificate
- Superannuation fund name and employer number
- Long service leave employer number
- Redundancy, trust name and employer number

- U-plus or equivalent insurance number

The Register shall contain the following information for each employee -

- Name and address
- Classification and certificate details
- Induction date
- Start date on construction site
- Superannuation scheme name and employee number
- Long service leave number
- U-plus or equivalent insurance number
- Green card number
- Emergency contact