



## Fact Sheet – Applying the Scheme to Directly funded building work

The Work Health and Safety Accreditation Scheme (the Scheme) operates such that, subject to certain thresholds, only builders who are accredited under the Scheme can enter into head contracts for building work funded directly or indirectly by the Commonwealth or a corporate Commonwealth entity.

The information within this factsheet and the flowchart at [Appendix 1](#) can assist organisations in understanding whether the Scheme applies to individual projects.

For more information on what constitutes building work, refer to our fact sheet **Definitions of 'Builder' and 'Building Work'**. For further information on the Scheme and how it applies to indirectly funded building work, refer to the fact sheets **Applying the Scheme to indirectly funded building work** and **Contracting for Australian Government funded building work**.

### What is directly funded building work?

Projects are considered to be directly funded where an Australian Government Agency has responsibility for the project funding and development.

Directly funded building work includes projects where the Australian Government enters into contracts with persons who:

- will carry out the building work; or
- may arrange for building work to be carried out.

This includes building work that the Australian Government facilitates directly by agreement, for example, Build Own Operate (BOO), Build Own Operate Transfer (BOOT), and pre-commitment leases. All pre-commitment leases are covered by the Scheme, and where they are funded by the Australian Government, the direct threshold will apply.

Examples of directly funded building work include:

- a new Medicare office
- Department of Defence facilities

- a fit-out or refurbishment of existing Australian Government office accommodation.

### What thresholds apply to directly funded building work?

The Scheme applies to all projects that are directly funded by the Commonwealth or a corporate Commonwealth entity which include building work. An accredited builder must be engaged if a 'head contract for building work' under the project has a value of at least \$4 million (GST inclusive).

An accredited builder will not be required to undertake building work under the project if the value of the 'head contract for building work' is below the specified direct funding threshold.

The flowchart at [Appendix 1](#) provides further assistance in determining whether an accredited builder must be engaged for a project.

### What is a head contract for building work?

A 'head contract for building work' is the highest level contract or funding agreement enacted for a project that includes building work and where the entity entering into the contract or agreement undertakes the building work themselves. This entity is defined as a 'builder' for the purposes of the Scheme.

The total value of the contract or agreement must be considered when establishing whether the \$4 million threshold has been reached, regardless of the value of the building works component of the contract or agreement.

Where an Australian Government Agency enters into a contract or funding agreement to complete a project that includes building work, but that entity will not be undertaking the building work themselves (for example a contract entered into with a Project Management company), this contract or agreement is not considered to be a 'head contract for building work'. For this project, the 'head contract for building work' will sit at a lower contractual level dependent on who is engaged to undertake the building work. The

highest level contract or agreement that is enacted with a different entity, that:

- forms part of the funded project; and
- includes building work that will be undertaken by the different entity;

will constitute a ‘head contract for building work’.

There may be more than one ‘head contract for building work’ under an individual project. For example, a corporate Commonwealth entity may choose to undertake a project in three discrete stages as follows:

- Stage 1 – Demolitions and site clearance
- Stage 2 – Establishment of Building foundations
- Stage 3 – Building construction

If the corporate Commonwealth entity issues separate tenders for each stage and engages different entities to undertake the building works under each stage, the separate contracts or funding agreements for each stage will all constitute a ‘head contract for building work’.

### **Examples of how the direct funding threshold applies**

The following examples explain how the Scheme thresholds are applied in practice:

#### Example 1:

A corporate Commonwealth entity issues a tender for the construction of a data centre which includes construction of the physical building plus the supply and installation of equipment. The expected cost of the project is around \$10 million comprising \$6 million for the cost of the building and \$4 million for the equipment.

Two tenders are submitted. Tender one outlines that the full project will be undertaken by the tendering entity. Tender two indicates that the tendering entity will act as a project manager and separately subcontract the centre build and supply/installation of equipment.

If tender one is selected, the entity would be required to be accredited under the Scheme to meet the legislative requirements. This is because the contract that will be entered into is over \$4 million and includes building work that will be undertaken by the entity signing the contract.

If tender two is selected, the entity would not require accreditation however it is likely that an accredited builder will need to be engaged to undertake the building construction. This will be dependent on the value of any ‘head contract for building work’ under the project. An accredited builder will be required if the contract value is at least \$4 million.

#### Example 2:

A Commonwealth department enters into a contract valued at \$6m for the cleaning and maintenance of its office building. Even though the maintenance component of the contract will involve minor building works, the contract is not considered to be a ‘head contract for building works’ because all maintenance activities will be subcontracted to another entity on a six-monthly basis.

These subcontracts will be considered to be ‘head contracts for building work’ for the purposes of the Scheme. In this case, an accredited builder will not be required to undertake the maintenance works as the value of the six-monthly contracts will normally be around \$200,000.

#### Example 3:

A corporate Commonwealth entity issues a tender to upgrade the fire systems within its building. The expected cost of the project will be around \$8.5 million. A preferred tenderer is selected and the contract for works is expected to total \$7.7 million. This contract is considered to be a ‘head contract for building work’ for the purposes of the Scheme and can only be entered into with an accredited builder as the value exceeds the threshold.

As the preferred tenderer is currently in the process of applying for accreditation, the contract signing will need to be delayed until accreditation is achieved. Alternatively, the corporate Commonwealth entity will need to contract with another suitable tenderer that already holds accreditation under the Scheme.

**For further information:**

- Visit the FSC website at [www.fsc.gov.au](http://www.fsc.gov.au)
- Contact the FSC Assist Line on **1800 652 500**
- Contact the OFSC via email at [ofsc@jobs.gov.au](mailto:ofsc@jobs.gov.au)

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### Which entity needs to hold accreditation under the WHS Accreditation Scheme?

This flowchart can be used by Commonwealth Agencies or corporate Commonwealth entities to determine whether an entity is required to hold accreditation under the WHS Accreditation Scheme (the Scheme). In this flowchart, the term 'value of the contract' refers to the full value of the contract and is not limited to the value of any building work that may be undertaken as a part of the contract.

