

# Aboriginal Participation in Construction **Guidelines**

APPLYING TO PROJECTS COMMENCING 1 JANUARY 2007

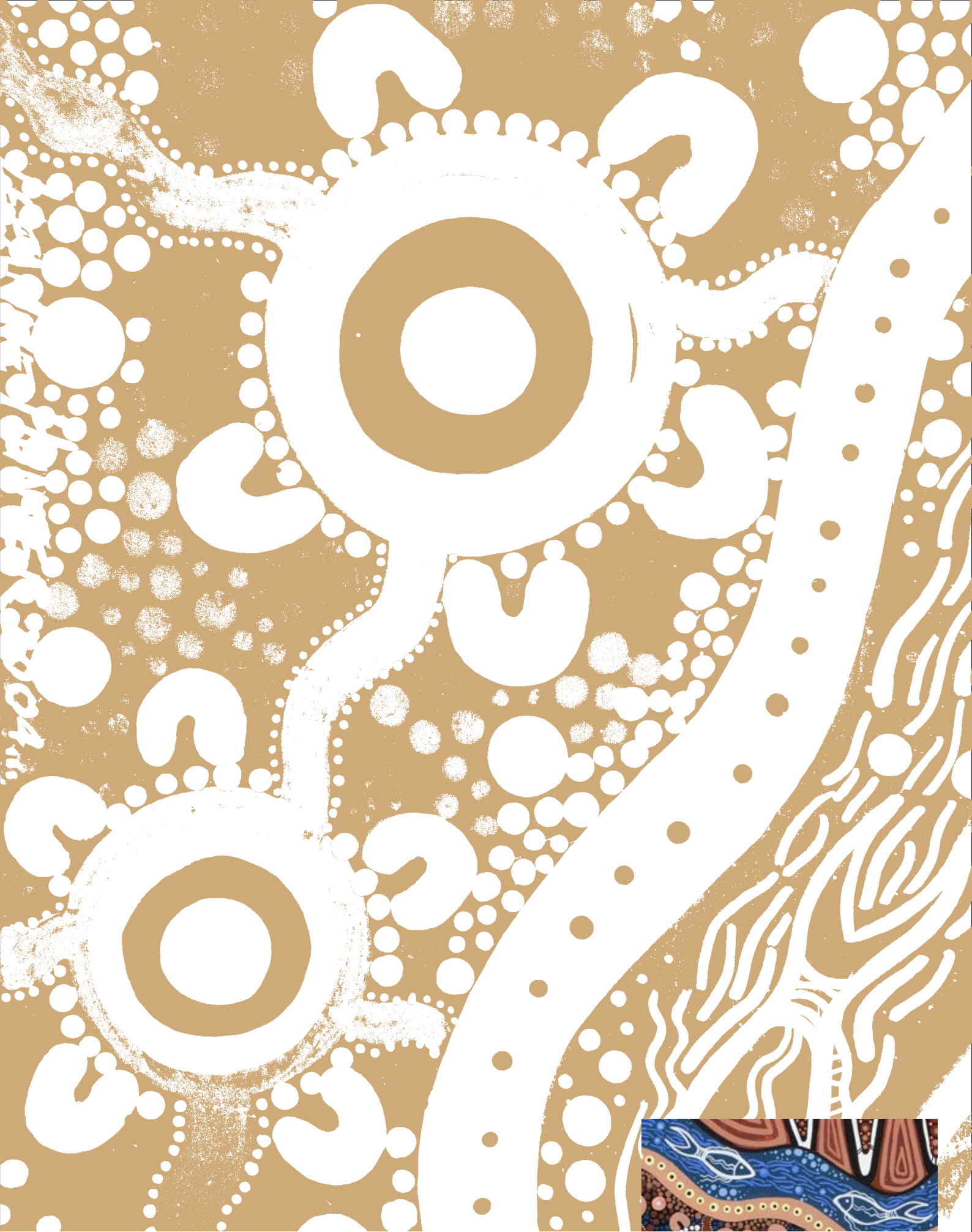


These Guidelines replace *Aboriginal Participation in Construction: Implementation Guidelines* issued in January 2001.



New South Wales Government





Cover painting: Leeanne Hunter, "Remember Our Ways" (2004).

# The **importance** of Aboriginal participation in construction

The construction industry is a significant employer in the NSW labour sector. Depending on the region, between 10 and 17 percent of Aboriginal men in New South Wales are employed in construction and a growing number of Aboriginal women, making it one of the main employers of Aboriginal people in the State.

Because around \$7 billion is spent each year on government construction projects throughout New South Wales, NSW Government investment in the construction industry has the potential to play an important role in supporting long term improvements to the employment and economic status of Aboriginal people.

The *Aboriginal Participation in Construction Guidelines* are aimed at supporting and encouraging more employment and business opportunities for Aboriginal people on government construction projects. These Guidelines are an update and simplification of those first issued in January 2001, and will apply from 1 January 2007.

Through the application of a number of flexible criteria, the Guidelines enable government agencies to assess whether particular construction projects can provide employment opportunities for Aboriginal people. They also provide step-by-step advice as to how to facilitate greater levels of Aboriginal participation in such construction projects.

The Guidelines apply to all government construction projects and activities involving demolition, building, landscaping, maintenance, civil engineering, mining and heavy engineering. This includes projects involving private-sector participation. They also apply where the provision of an asset may be on land that is not owned by the Government e.g. land owned by a Local Aboriginal Land Council (LALC), or where the built asset will be owned by a non-Government entity, e.g. a LALC or other Aboriginal Corporation.

A range of construction companies have already committed to employing Aboriginal people on projects in which they are involved. The challenge for the NSW Government is to further encourage this spirit of engagement and increase the number of construction companies supporting this initiative.



Apprentices Arnold McGrady and Leon McGrady setting out timber floor joists for the Stage 3 Boggabilla/Toomelah Project, run by the Batchelor Institute of Indigenous Tertiary Education.

# Aboriginal **participation** in construction policy



The NSW Government is committed to extending and creating employment opportunities for Aboriginal people, enhancing their business skills, and improving the social and economic conditions of Aboriginal people and communities in New South Wales.

To facilitate the achievement of these goals, a ten year Aboriginal affairs plan, *Two Ways Together 2003-2012*, has been developed. The Plan establishes a strategic, whole-of-government framework for NSW Government agencies to work in a coordinated way with Aboriginal communities to improve the lives of Aboriginal people.

Government construction is one area where work is being targeted under *Two Ways Together* to support Aboriginal employment across the State.

The *Aboriginal Participation in Construction Guidelines* are incorporated in the NSW Government Procurement Policy available on the NSW Treasury website at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au). This is an overarching framework for all government procurement and applies to all government departments, statutory authorities, trusts and other government entities. State Owned Corporations are exempt, although they are encouraged to adopt aspects of the policy that are consistent with their corporate intent.

The *Aboriginal Participation in Construction Guidelines* aim to improve workforce diversity in the construction and related industries by facilitating the development of Aboriginal enterprises and encouraging government contractors to provide Aboriginal people with apprenticeships, on-the-job skills training and career opportunities for those first entering the industry.

To achieve this, NSW Government agencies will, on selected construction projects:

- require service providers to meet agreed Aboriginal participation targets and report on the delivery of Aboriginal development outcomes; and
- seek to use service providers with a commitment and demonstrated ability to effectively plan and implement Aboriginal participation appropriate to the needs of the service provider, the project and employees.

The Guidelines should be read in conjunction with the NSW Government *Training Management Guidelines* for construction projects and the *Code of Practice for Procurement*, both available on the NSW Treasury website at: [www.treasury.nsw.gov.au/procurement/procureintro.htm](http://www.treasury.nsw.gov.au/procurement/procureintro.htm)



Apprentice Reginald McGrady working inside the "apprentices' house" on the Stage 3 Boggabilla/Toomelah Project.



# Requirements for agencies and information for tenderers

Government agencies are required to identify construction projects that have the potential to deliver improved employment outcomes for Aboriginal people and enterprises.

This requirement applies to construction projects that are to take place in areas where there is a significant Aboriginal population, or where Aboriginal people are one of the main client groups for the construction project, such as a school or hospital. If agencies require clarification or advice regarding Aboriginal demographics, they should contact the Department of Aboriginal Affairs on 02 9219 0700.

It is recommended that agencies identify potential opportunities for Aboriginal participation as early as possible during project planning. This may involve meeting with members of the local Aboriginal community, and could include Aboriginal tradespersons, apprentices and enterprises available to work on the project.

Contact details for Aboriginal enterprises involved in construction and related businesses are available in the Procurement/Construction Suppliers section of the Department of Commerce website at:

[www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au)

They are also available on the Aboriginal Housing Office website at:

[www.aho.nsw.gov.au/builders.asp](http://www.aho.nsw.gov.au/builders.asp)



## Application of project categories

Agencies are required to determine the project category to which a given construction project is allocated according to the extent to which the project affects Aboriginal people. Different levels of commitment and documentation from tenderers are required for different categories of project.

The project categories are:

**CATEGORY 1 PROJECT** – Primarily directed to one or more Aboriginal communities, or where an Aboriginal community is the sole or predominant beneficiary.

**CATEGORY 2 PROJECT** – Has an Aboriginal community as one of the key user groups, or a prominent project stakeholder.

**CATEGORY 3 PROJECT** – A government project which has the potential to benefit the Aboriginal community.

These categories provide a minimum set of criteria for establishing whether Aboriginal participation should be considered in planning a government construction project. However, agencies are encouraged to apply these Guidelines to *any* project which they consider would be appropriate for Aboriginal participation. They can, for example, apply the requirements for a higher project category to a given project, even though the circumstances of the project do not fall within the strict definition of a particular project category. For example, a Category 2 project could be upgraded to a Category 1 project. Alternatively, agencies can decide to allocate any project to a particular project category even if it does not fit within any of the above definitions.



Apprentice Alex MacIntosh working on a set of stairs for the Boggabilla/Toomelah Project.

## Identification of Aboriginal community stakeholders

Because Aboriginal communities are the main beneficiaries of Category 1 projects, agencies are required under *Two Ways Together*, the NSW Government's 10 year Aboriginal affairs plan, to undertake adequate consultation with communities in the planning and implementation stages of such projects.

Regardless of the category to which a particular project is ultimately assigned, agencies should identify key Aboriginal and other project stakeholders as early as possible in the project planning process. Community members have access to knowledge, skills and networks that can enhance project planning and delivery processes.

Agencies should consider formalising consultation through the creation of an Aboriginal Consultative Group. The Department of Aboriginal Affairs can assist agencies in developing the appropriate consultation processes.

## Preparation of tender and contract requirements

Tenderers must be informed of the requirements to be met for the chosen category.

### RECOMMENDED CONDITIONS OF TENDERING AND CONTRACT CLAUSES

Agencies are referred to the GC21 standard form or Minor Works standard form contract documents for recommended text on Aboriginal participation conditions of tendering and contract clauses. These forms are available from the Procurement/Procurement System for Construction section of the [www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au) website.

The category of Aboriginal participation is usually included in a contract information annexure in the contract documents, but can be stated elsewhere as long as it is clear to the tenderers and contract administrator.

### PREQUALIFICATION AND EXPRESSIONS OF INTEREST

Where calls are made for prequalification of service providers, government agencies are required to ensure that the call document outlines the information tenderers must submit to demonstrate their capacity to comply with the Aboriginal participation requirements of the contract.

### NON-PRICE TENDER EVALUATION CRITERIA

Agencies are required to include as a non-price tender evaluation criterion the tenderer's capacity to implement Aboriginal participation and to weight this criterion appropriately. The selection criteria must be clearly advised to tenderers in the tender documents.

# Tender requirements

Tenders submitted for each of the three categories must meet the following requirements:

## Category 1 Projects

Tenders for **Category 1 Projects** will only be accepted from tenderers if they include the following documents in the tender response:



### 1. MANAGEMENT STATEMENT OF SUPPORT FOR ABORIGINAL PARTICIPATION

This is a statement from the tenderer's senior management that it is genuinely committed to creating and extending opportunities for Aboriginal people and enterprises through undertaking the contract, and is capable of implementing its proposed Aboriginal Participation Plan. It commits the organisation to incorporating Aboriginal participation as a core function in all project management processes, and ensuring that its dealings with Aboriginal people consistently take place in a culturally sensitive manner. Ongoing commitment and leadership from management is vital to ensure the effectiveness and success of an Aboriginal Participation Plan.

### 2. STATEMENT OF OPPORTUNITIES FOR ABORIGINAL PARTICIPATION

This document identifies the training and employment opportunities the tenderer will make available to Aboriginal workers and enterprises at different stages of the project. It should specify the stages of the contract in which Aboriginal participation will be sought, the trades in which apprenticeships, training and/or employment will be provided, how many positions have been allocated, and details of any training, mentoring and professional development requirements for participants.

### 3. ABORIGINAL PARTICIPATION PLAN

This document explains how the tenderer will deliver the Aboriginal participation objectives it has outlined in the Statement of Opportunities. The Plan should detail:

- the roles and key responsibilities of Aboriginal personnel, enterprises and training providers across the life of the project;
- how the tenderer will implement, monitor and review Aboriginal participation in the project, including key milestones and measurable performance targets;
- who in management will be responsible for implementation, monitoring and reviewing the Plan, and taking corrective actions if required;
- how the tenderer will communicate with workers, unions, service providers and the Aboriginal community about Aboriginal participation issues (including cultural awareness training for the relevant personnel);
- the methods the tenderer will use to assess the capacity of subcontractors and other service providers to fulfil the stated Aboriginal participation commitments; and
- key performance indicators to be used to monitor and review Aboriginal participation.

The detail provided in an Aboriginal Participation Plan will depend on the size, scope and nature of the project.

Models of Management Statements of Support, Statements of Opportunities and Aboriginal Participation Plans will be available in early March 2007 in the Procurement/Procurement publications section of the Department of Commerce website at [www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au)

## Category 2 Projects

Tenders for **Category 2 Projects** will only be accepted if they include:

### 1. MANAGEMENT STATEMENT OF SUPPORT FOR ABORIGINAL PARTICIPATION

See p.8.

### 2. STATEMENT OF OPPORTUNITIES FOR ABORIGINAL PARTICIPATION

See p.8.

### 3. STATEMENT OF ABILITY TO PROVIDE AN ABORIGINAL PARTICIPATION PLAN

This statement attests that the tenderer, if successful, will provide an Aboriginal Participation Plan to be reviewed and accepted by the agency calling tenders before site works begin. The requirements for an Aboriginal Participation Plan are provided on p.8.

## Category 3 Projects

Tenders for **Category 3 Projects** will only be accepted from tenderers if they include:

### 1. MANAGEMENT STATEMENT OF SUPPORT FOR ABORIGINAL PARTICIPATION

See p.8.

### 2. COMMITMENT TO PROVIDE A STATEMENT OF OPPORTUNITIES FOR ABORIGINAL PARTICIPATION AND AN ABORIGINAL PARTICIPATION PLAN

This statement attests that the tenderer, if successful, will provide a Statement of Opportunities for Aboriginal Participation and an Aboriginal Participation Plan before site works begin. The requirements for the content of these documents are provided on p.8.



Arnold McGrady cutting angles for the roof construction on the Boggabilla/Toomelah Project.

## Tender evaluation

For the general tender evaluation procedure, agencies and tenderers are referred to the NSW Government Tendering Guidelines available from the Procurement Section of the [www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au) website.

Aboriginal participation can be used in the first stage of multi-stage tenders as a method of comparing the eligibility of tenderers for the second stage.

Agencies should ensure that there is an Aboriginal representative or appropriate representation on the tender evaluation panel where Aboriginal participation capability is a tender evaluation criterion.

## During the Contract

The contractor's Aboriginal Participation Plan will be reviewed by the agency contract administrator or an agent (such as a private sector project manager) prior to the commencement of site works, and periodically during the contract. The reviews must include an on-site verification that the Plan is being correctly implemented, that performance targets are being met, and that the stated outcomes are being achieved.

The number and scope of reviews for each contract will be determined by the agency contract administrator, and will depend on the size, scope and nature of the project, as well as the targets detailed in the Plan.

Contractors should be provided with an opportunity to comment on the review and encouraged to promptly implement any corrective actions identified. The review results will be included in the Contractor Performance Reports for the project. Contractor Performance Reports are considered in the future allocation of work by government agencies.

Agencies and contractors should refer to the NSW Government *Contractor Performance Reporting Guidelines*, available from the NSW Treasury website at: [www.treasury.nsw.gov.au/procurement/procureintro.htm](http://www.treasury.nsw.gov.au/procurement/procureintro.htm)



Mike McGrady, Lonnie Duncan, Elaine Edwards, Reginald (Dickie) McGrady and "PJ" Duncan with timber storage sheds on site at the Toomelah and Boggabilla housing and infrastructure project.

## Maintaining records

Each agency must retain and centralise records of the performance of its contractors in relation to Aboriginal participation.

## Post-project reviews

Agencies must conduct a post-project review to identify project achievements with respect to Aboriginal participation and opportunities for improvement on other projects.

To continuously improve performance, it is important to establish mechanisms to collect community and project experience in order to share that learning and avoid pitfalls on future projects.

This would normally include responses to the following questions:

- Did the project deliver the identified Aboriginal participation objectives?
- What Aboriginal participation opportunities for employment, training and business development were achieved?
- If the project was successful, what were the main success factors?
- If the project was regarded as unsuccessful, what were the impediments?

## Publicise project success stories

Agencies should actively publicise successful project outcomes to other government agencies and the community, and to seize opportunities to convey lessons learned to industry stakeholders through industry forums.

## For more information

Phone: Agency Procurement Information Service  
02 9372 8600 or

Email: [gpshep@commerce.nsw.gov.au](mailto:gpshep@commerce.nsw.gov.au)



