

Interim Status Report



Following the annual meeting of the Canadian Construction Association (CCA) and the Government of Canada at Meech Lake in April 2016, and at the request of CCA, Public Services and Procurement Canada (PSPC), Defence Construction Canada (DCC) and a CCA taskforce on federal prompt payment formed a Government-Industry Working Group. The objectives and focus of the working group are described in the working group's **Engagement Strategy**, a document that was finalized in late 2016, translated and approved for circulation by all working group members in February 2017.

The CCA taskforce includes trade contractors, specialty contractors, general contractors and services providers, and was appointed by the CCA Executive Committee acting on a resolution of the CCA board of directors at the fall 2015 board meeting.

The working group is looking to influence federal government contract terms, practices and culture towards achieving the principles expressed in CCA's policy statement on payment (Policy 4.15 Payment cca-acc.com/cca/policy-statements). The working group is of the view that no single initiative or "tool" is likely to solve the prompt payment problem, and is considering a number of initiatives which together will improve the promptness of payment throughout the construction industry on federal construction projects.



SCOPE

In defining the "problem," the working group describes its vision of the minimum characteristics of a well-functioning market that enjoys timely payment on federal construction projects:

- Contractual payment terms throughout the federal construction contracting tiers should be fair. The group's working reference point for what constitutes "fair" terms are the industry-standard contract/subcontract documents endorsed by the CCA;

- Undisputed amounts, including holdback amounts, throughout the contract tiers are paid in accordance with fair contract/subcontract payment terms;
- There is sufficient transparency around the dates on which payments are made to enable stakeholders throughout the contracting tiers to exercise remedies in a timely manner;
- PSPC and DCC continue to manage fair and efficient payment processes within its contractual control, and where it does not have control, leads by example to influence good payment practices throughout the payment chain;
- The construction industry at all levels is knowledgeable about available contractual and legal mechanisms, and acts with confidence to ensure timely cash flow throughout the industry.



OBJECTIVE

The working group is working to implement initiatives by both government (PSPC and DCC) and industry that the group believes will help improve timely payment on PSPC/ DCC construction contracts. The initiatives being considered by the working group include some that are contractual and some that are not contractual (i.e. policy statements and administrative process improvements).



CURRENT PRIORITIES

1. **Transparency** – PSPC and DCC are developing a tool to post on a public website the dates on which they issue payments to their prime contractors on construction contracts above \$100,000.

- 2. Statement of Principles** – following adoption by the CCA board in spring 2016 of the policy statement on payment (Policy 4.15 Payment cca-acc.com/cca/policy-statements), PSPC and DCC have adopted principles advocating for a prompt payment culture in government and within industry participants. These principles will be included in future construction tenders.
- 3. Fair Payment Terms** – PSPC and DCC have reviewed their standard contracts for consistency and alignment with CCDC standard documents.
- 4. Government Service Standards** – PSPC is reviewing internal processes to identify any opportunities for improvement affecting the timing of payment.
- 5. Education** – The working group will be developing education content around contract terms, service standards, frequent bottlenecks, remedies for delayed payment, and payment best practices on federal construction contracts. Training could be structured with local construction associations for joint delivery with government on how to do business with PSPC and DCC.



CONSTRUCTION VS. REAL PROPERTY SERVICES (RP) CONTRACTS

The Government of Canada currently invests in construction both directly through construction contracts, and through Real Property Services Management contracts, often referred to as “RP-n” contracts (e.g. RP-1 and RP-2). Initiatives by the working group will not apply to the existing RP-1 or RP-2 contracts. The working group will initially focus on initiatives to improve timely payment throughout the contract tiers on government’s direct construction contracts (contracts administered through PSPC and DCC with values over \$100,000). The working group scope includes consideration of applying identified initiatives on future RP-n procurements.



FUTURE

In addition to the priorities above, the working group is considering several other initiatives including, for example, a review of holdback requirements, a review of the dispute resolution process, and a simple method for benchmarking industry experience over time on promptness of payment and evaluating the impact of the various measures put in place by the working group. 