

25 September 2020

To: All firms registered in BCA's Contractors Registration System ("**CRS**") and Public Sector Panels of Consultants ("**PSPC**")

Circular on Treatment of Claims Arising from COVID-19 in Public Sector Construction Contracts

This circular informs all contractors and consultants registered in CRS and PSPC on the following changes to the earlier circulars issued regarding advance payment and co-sharing of prolongation costs arising materially from COVID-19:

- (A) Government agencies ("**GPEs**") will have the flexibility in deciding the start date and number of instalments for the recovery of advance payment provided to contractors;
- (B) Processing of contractors' claims for Extension of Time ("**EOT**") and co-sharing of prolongation costs arising from project delays due to the COVID-19 will be expedited.

2 As part of the support measures for Built Environment ("**BE**") sector firms, BCA has issued the following circulars:

| Date of Circular | Key Information in Circular |
|---|---|
| Advance Payment ("AP") | |
| 7 April 2020 | One-off AP for public sector construction contracts affected by the suspension of activities at workplaces due to COVID-19 during Circuit Breaker (" CB ") from 7 April 2020 to 4 May 2020 |
| 19 May 2020 | Extension of the one-off AP to cover public sector construction contracts affected by the extended CB from 5 May 2020 to 1 June 2020 |
| 29 June 2020 | Continue to provide AP at monthly intervals, until work for the construction contract has obtained approval to resume or 31 December 2020, whichever is earlier. |
| Co-Sharing of Prolongation Costs due to COVID-19 | |
| 29 June 2020 | Ex-gratia co-sharing of prolongation costs due to COVID-19 |

3 Subsequent to the circulars, the COVID-19 situation continued to evolve and has impacted the resumption of construction activities on site. Notwithstanding that public sector projects have progressively received approvals to restart works, the actual activities on site and progress payments submitted by contractors since the construction restart have been slow. Considering the ground situation and to facilitate faster disbursement of payments to contractors, the following adjustments in Paras 4 to 8 are made with regard to the earlier circulars issued on AP and co-sharing of prolongation costs due to COVID-19.

(A) AP

4 By default, unless the contract is near completion, the recovery of AP should not start earlier than two (2) months from the date when work restarted. In situations where there is insufficient progress payment due to slow restart of works, government agencies can postpone the recovery of AP to subsequent months. ***GPEs have the flexibility to defer the start of recovery of AP to a later date, depending on actual site progress and progress payments.***

5 On the instalments of AP recovery, the default arrangement is to recover the AP in 12 equal instalments. Recognising that the progress payments in the initial months after the restart could be slow, GPEs have been given the flexibility to arrange with the contractor on adjusting the AP instalments to be recovered.

(B) EOT and Co-Sharing of Prolongation Costs due to COVID-19

6 To expedite the processing of the claims for EOT and the ex-gratia co-sharing of prolongation costs due to COVID-19, the project Superintending Officer (“SO”) will be instructed to:

- (i) ***Expediently grant a default 4-month EOT to contractors for the common period of delay*** from start of CB on 7 Apr 2020 until the date when all dormitories are announced to be cleared on 6 Aug 2020 unless the project has not stopped during the circuit breaker or the project had restarted substantially on site before 6 Aug 2020. The project SO may assess any other EOT claims for any delay that occurred after 6 Aug 2020, in accordance with the contract.
- (ii) ***Waive the requirement under the Public Sector Standard Conditions of Contract (“PSSCOC”) Clause 14.3(1) that require the contractors to submit the notice and/or substantiate the EOT claims when granting this common 4-month EOT.***
- (iii) ***Expedite the processing of contractors’ claims*** for co-sharing of prolongation costs incurred during the EOT.

Cap for co-sharing of prolongation costs

7 In the “Circular on Ex-Gratia Co-Sharing of Prolongation Costs due to COVID-19” dated 29 June 2020, we have stated that co-sharing of the cost will be subject to caps of 5 months for the period of CB, extended CB and Restart Period and 4 months after obtaining BCA’s approval for restart for delay due to loss of productivity. ***To facilitate claims, the two caps will no longer apply. Instead, the co-sharing of cost will now only be subjected to a single overall cap of 9 months.***

Claim template

8 BCA has jointly developed a template with The Singapore Contractors' Association Ltd (“**SCAL**”) and GPEs to facilitate the claim process. Main contractors can adopt and modify the template as necessary. GPEs have also been reminded that claims for prolongation costs arising from COVID-19 cannot be rejected on the ground that this claim template is not used. The template can be downloaded from <https://go.gov.sg/bca-template-prolongation-costs>.

Clarifications

9 For any clarification in respect of this advisory, please contact BCA at BCA_PPD@bca.gov.sg.

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(Transmitted via email)