

29 June 2020

To: All firms registered in BCA's Contractors Registration System (CRS)

Circular on Advance Payment for Public Sector Construction Contracts to Facilitate the Restart of Works

This circular informs all contractors registered in CRS on the advance payment (AP) for public sector construction contracts affected by the restart of the construction sector¹.

2 Under the requirements for the restart, construction projects that assess that they are ready (i.e. met the COVID-Safe restart criteria) can apply for restart of the works. To facilitate the restart and mitigate potential cashflow impact to the main contractors, subcontractors and suppliers involved in public sector construction projects, **government agencies may continue to provide AP at monthly intervals, on ex-gratia basis, until work for the construction contract has obtained approval to resume or 31 Dec 2020, whichever is earlier**. The overall cumulative AP, including the AP provided during the CB, extended CB period² and till the approval to resume works is obtained shall be capped at 5% or \$10mil, whichever is lower.

3 The amount of AP each month can be calculated based on (i) the AP amount certified in the preceding month or (ii) 50% of the average monthly payment based on past 3 most recent certified monthly payments, if no APs were certified previously. **The monthly AP quantum for each contract until work resumes shall be capped at 2.5% of the awarded contract sum or \$5mil, whichever is lower (subject to the overall cap of 5% or \$10mil, whichever is lower)**. The specific quantum of AP may vary from project to project, depending on the stage of the project and the remaining contract duration and remaining payment that may become payable. Contracts that have been terminated for default and newly awarded contracts with tenders that closed after 1 Jun 2020 are not eligible for AP.

Claim and payment process

4 If the main contractor wishes to claim for the AP, **the main contractor is required to provide the following either in their regular progress payment claim or as a standalone**

¹ BCA issued an advisory on 25 May 2020 to inform the BE sector that all construction projects which have been suspended during Circuit Breaker (CB) and extended CB period shall remain so even after 1 June 2020, until such time when the BCA's approval on behalf of the Ministry of Trade and Industry (MTI) is obtained for the relevant works to be restarted.

² BCA and MOF issued joint advisories on 7 Apr 2020 and 19 May 2020 to inform GPEs on the one-off AP for all affected projects during the CB period from 7 Apr 2020 to 4 May 2020 and extended CB period from 5 May 2020 to 1 Jun 2020.

payment claim that shall be submitted to their respective government agency from the date of this Circular³:

- i) a list of its first-level subcontractors or suppliers involved in the works originally scheduled during the Extended Circuit Breaker period (if this information was not provided before);
- ii) the amount of AP to claim; and
- iii) the amount of AP to be retained by the main contractor and passed down to each first-level subcontractors and suppliers, where relevant.

The main contractor shall submit claim for up to one month of AP each time. Claims for the previous tranches / month of AP will not be entertained.

5 ***Main contractors are not expected to pass down to their subcontractors or suppliers more than what they have received for the AP from the government agency in the respective contract.*** However, if the main contractor proposes a small portion of AP to be passed down to its subcontractors or suppliers despite their involvement in the original scheduled works, the main contractor may be asked to adjust the portion of AP to be passed down to its subcontractors and suppliers. For contracts where there are already existing provisions such as security deposit (SD) and/or retention monies to safeguard main contractor's interest, main contractors can rely on the existing provisions. However, if the AP amount to be provided to subcontractors or suppliers exceeds the amount under the existing security deposit and/or retention monies, main contractors may discuss with their subcontractors or suppliers on suitable mechanisms to safeguard the AP passed down.

Consequence of failure to pass down advance payment

6 Within 14 days from the receipt of the Payment Certificate for the AP from the government agency, the main contractor shall submit to the government agency its own Payment Responses issued to subcontractors or suppliers, as proof of passing down the AP to its subcontractors or suppliers. ***Where a main contractor fails to pass down the AP to its subcontractors or suppliers, the AP shall be recovered in full from the main contractor in the next progress payment. The main contractor's performance may also be accorded a "Poor" rating by the government agencies.***

7 ***Subcontractors or suppliers are similarly expected to pass down a portion of the AP received from the main contractor to relevant subcontractors or suppliers engaged by them.*** As both main contractors and first-level subcontractors/suppliers in public sector projects are required to be registered in BCA's CRS, ***BCA may review the CRS registration of the CRS-registered contractor if BCA receives any feedback on the contractor failing to pass down the AP received.***

³ GST is not applicable for APs which are given in advance with no work done and do not constitute consideration received for the supply of construction services provided by the contractors at the point of receipt.

Recovery of advance payment

8 ***The combined AP provided in all tranches shall be recovered in twelve (12) equal monthly instalments*** or shorter quantum depending on the stage of the project and the remaining contract duration and remaining payment that may become payable. ***The recovery of the AP shall start two (2) months after the works for the construction project resume***, i.e. from the payment for work done in the month the recovery is due to start. For example, if the work resumes on 17 Jul 2020, the recovery can start on or after 17 Sep 2020. The AP would be recovered in the progress payment for the work done in Sep 2020. If the AP is recovered through other means (i.e. not through the progress payment), government agencies can start to recover the amount anytime on or after the due date for recovery. The AP can be recovered by deducting the instalment sum from subsequent progress payments or other modes of recovery. Main contractors should apply the same for recovery from subcontractors and suppliers.

9 For clarifications on this circular, please email to BCA_PPD@bca.gov.sg.

10 More information on support measures for Built Environment firms and FAQs may be found [here](#).

Er. Ng Man Hon
Director, Procurement Policies Department
Building and Construction Authority

(Transmitted via email)