

[**Superseded:** Please refer to <https://go.gov.sg/bca-circular-claims-ap-eot> for the latest circular]

19 May 2020

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

Circular on One-off Advance Payment for Public Sector Construction Contracts Affected by the Extended Circuit Breaker (from 5 May 2020 to 1 Jun 2020)

This circular informs all contractors registered in CRS and PSPC on the one-off advance payment (AP) for public sector construction contracts affected by the Extended Circuit Breaker (from 5 May 2020 to 1 Jun 2020).

2 BCA issued an advisory on 7 Apr 2020 to inform contractors that government agencies will make a one-off AP, on ex-gratia basis, to the main contractors for affected public sector construction contracts during the Circuit Breaker period from 7 Apr 2020 to 4 May 2020. As the Circuit Breaker has been extended to 1 Jun 2020, BCA issued an advisory on 2 May 2020 to inform the Built Environment sector that non-essential construction works must continue to cease until 1 Jun 2020. As such, most public sector construction projects will stop until 1 Jun 2020 and contractors in these projects would not receive any progress payment from 5 May 2020 to 1 Jun 2020 ("Extended Circuit Breaker period"). In view of the potential cashflow impact to the main contractors, subcontractors and suppliers involved in public sector construction projects which could affect subsequent resumption of public sector projects after the Extended Circuit Breaker period, **government agencies shall provide a one-off AP on ex-gratia basis for the Extended Circuit Breaker period for public sector construction contracts.**

3 Similar to the first tranche of AP covering the Circuit Breaker period from 7 Apr 2020 to 4 May 2020, **the amount of AP covering the Extended Circuit Breaker period can be calculated based on (i) AP amount based on the AP amount certified in April or (ii) 50% of the average monthly payment based on past 3 most recent certified monthly payments, if no AP was certified in April 2020.** 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. **The AP quantum for the Extended Circuit Breaker shall be capped at 2.5% of the awarded contract sum or \$5mil, whichever is lower.** Contracts that have been terminated for default shall not be eligible for the AP.

Claim and payment process

4 Similar to the first tranche, **the main contractor is required to provide the following** either in their regular progress payment claim or as a standalone payment claim that shall be submitted to their respective government agency from the date of this Circular to **8 Jun 2020**¹:

- i) a list of its first-level subcontractors or suppliers involved in the works originally scheduled during the Extended Circuit Breaker period;

¹ Main contractors shall not include claims for the first tranche of AP (i.e. from the period 7 Apr 2020 to 4 May 2020) in this claim. 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.

- 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.

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. As MOF has waived the requirement for main contractor to submit a security deposit (SD) to government agencies for the AP, likewise, main contractors should avoid requesting for SD from their subcontractors and suppliers for the AP. However, main contractors have the discretion to request subcontractors and suppliers to submit AP guarantee (in the form of banker or insurance guarantee) from subcontractors or suppliers receiving AP of at least \$500,000.

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. The main contractor shall also indicate to the government agency the amounts and nature of other payments (e.g. expenses on security or vector control) made during the Extended Circuit Breaker Period. **Where a main contractor fails to pass on the AP to its subcontractors or suppliers, the AP shall be recovered in full in the next progress payment. The main contractor's performance assessment in the project C41 report 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.**

Recovery of advance payment

8 **The combined AP provided in both tranches shall be recovered in nine (9) 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 AP can be recovered by deducting the instalment sum from subsequent progress payments or other modes of recovery. The AP recovery shall **start two (2) months after the works for the construction project resume.** Main contractors should apply the same for recovery from subcontractors and suppliers. Projects with shorter remaining contract period will see the recovery of AP in lesser number of instalments.

9 For any clarifications, you may email to BCA_PPD@bca.gov.sg.

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

Annex - FAQ for One-off Advance Payment for Public Sector Construction Contracts Affected by the Suspension of Activities at Workplaces due to COVID-19

(Transmitted via email)

FAQ for One-off Advance Payment for Public Sector Construction Contracts Affected by the Extended Circuit Breaker (from 5 May 2020 to 1 Jun 2020)

Note: This FAQ supersedes the copy attached with the circular on “Reminder on the one-off advance payment for public sector construction contracts affected by suspension of activities at workplaces due to COVID-19” which was issued on 17 April 2020.

Q1	Does this circular apply to all construction contracts?
A1	No. It only applies to public-sector projects undertaken by Government agencies. As such, it does not apply to projects under private entities. Nonetheless, contractors could discuss the arrangement with their clients.
Q2	Does the circular apply to maintenance contracts (eg. maintenance of lifts, air-cons etc) or term contracts?
A2	No, it only applies to public sector construction contracts.
Q3	Is it mandatory for main contractor to claim for the advance payment?
A3	<p>It is not mandatory for main contractors to claim for advanced payment.</p> <p>As most construction works have been suspended during the circuit breaker, most contractors would not receive much progress payment in the months of April and May 2020.</p> <p>Hence, we strongly encouraged main contractors to assist their subcontractors and suppliers to work out a mutually acceptable arrangement with their subcontractors or suppliers such that they will have cashflow to tide over the circuit breaker. Main contractors can also claim advanced payment from the Government agencies so as to disburse it to the subcontractors or suppliers which may be in need of the advance payment. What we hope to avoid is a situation that main contractor fails to claim for advance payment, and their subcontractors and suppliers suffer from cashflow issues during the circuit breaker.</p>
Q4	Are suppliers (e.g. rental of equipment etc) entitled to the same advance payment as subcontractors?
A4	It would depend on the payment arrangement in the contract and whether the stop work period has affected the payment for material or equipment suppliers. For example, for suppliers of equipment, if the main contractor is paying for the rental of equipment during the stop work period, there is no need to pay them the advance payment.
Q5	If I carried out the project without any subcontractors or suppliers, am I also entitled to claim for the advance payment?
A5	Yes.
Q6	What is the deadline for the submission of the claim? Will I still be eligible for the claim if I were to submit it after the deadline?
A6	The claim for first tranche (i.e. April 2020) and second tranche (i.e. May 2020) must be submitted by 30 April 2020 and 8 June 2020 respectively. Any late claims will not be entertained by the agencies.

FAQ for One-off Advance Payment for Public Sector Construction Contracts Affected by the Extended Circuit Breaker (from 5 May 2020 to 1 Jun 2020)

<p>Q7</p>	<p>Please clarify the method/formula for the apportionment of advance payment to the main contractor and subcontractors/suppliers.</p>
<p>A7</p>	<p><u>From government agency to main contractors:</u> The amount of advance payment covering Circuit Breaker period from 7 April 2020 to 4 May 2020 would be computed based on 50% of the average monthly amount of certified progress payments in past 3 months received by the main contractor, capped at 2.5% of contract sum or \$5 million, whichever is lower. The amount of advance payment covering the Extended Circuit Breaker period from 5 May 2020 to 1 June 2020 shall be calculated based on (i) advance payment amount certified in April or (ii) 50% of the average monthly payment based on past 3 most recent certified monthly payments, if no advance payment was certified in April 2020. The advance payment quantum shall be capped at 2.5% of the awarded contract sum or \$5mil, whichever is lower.</p> <p><u>From main contractors to subcontractors/suppliers:</u> Main contractors need not equally apportion the payment to their subcontractors or suppliers. Main contractors can use similar computation to decide how much advance payment to be apportioned, i.e. to provide advance payment quantum based on 50% of what the subcontractor should be receiving during the circuit breaker (estimated using average monthly payment to the subcontractors in the past 3 months) for Circuit Breaker period from 7 April 2020 to 4 May 2020; and estimate the advance payment amount based on (i) the advance payment amount certified in April 2020 or (ii) the average monthly payment based on past 3 most recent certified monthly payments, if no advance payment was certified in April 2020, for the Extended Circuit Breaker period from 5 May 2020 to 1 June 2020.</p>
<p>Q8</p>	<p>How do we compute the amount of advance payment for newly awarded projects that do not have any progress payments or less than 3 certified progress payments thus far?</p>
<p>A8</p>	<p>It can be computed based on the cashflow projection for the project or the available numbers of certified progress payment or a combination of the two methods.</p>

FAQ for One-off Advance Payment for Public Sector Construction Contracts Affected by the Extended Circuit Breaker (from 5 May 2020 to 1 Jun 2020)

Q9	<p>If the maximum advance payment claim received by the main contractor (computed based on 50% of the average monthly amount of certified progress payments in past 3 months received by the main contractor, capped at 2.5% of contract sum or \$5 million, whoever is lesser) is less than the sum of the subcontractor's advance payment claim computed with the same basis (i.e. based on 50% of the average monthly amount of certified progress payments in past 3 months received by the subcontractors / suppliers, what should the main contractor do?</p>
A9	<p>First of all, main contractors are not expected to pass down to their subcontractors / suppliers more than what they have received from the government agencies. For example, if the advance payment received from the government agency is \$1mil, the main contractor just needs to apportion portion of the advance payment of \$1mil to their subcontractors and suppliers which are supposedly to be involved in the construction works during the circuit breaker. The basis of using 50% of average monthly amount of certified progress payments in past 3 months is just one of the methods to estimate the amount of progress payment that the contractor is supposed to receive during the circuit breaker. The exact amount that the subcontractor/supplier would receive still depends on the actual amount of advance payment received by the main contractor from the government agency, but the main contractor shall use his best efforts to apportion the advance payment on a fair basis accordingly.</p>
Q10	<p>Is this advance payment claim over and above the progress claim for work done in the month of April and/or May 2020 which the main contractor will be claiming separately?</p>
A10	<p>Yes, this advance payment claim is over and above the progress claim for work done in April and/or May 2020. Contractors can submit the claim for advance payment in their regular progress payment claim or as a standalone payment claim. The same applies for the second tranche of advance payment.</p>
Q11	<p>Upon submission of the advance payment claim, when will the advance payment certificate be issued and when will the advance payment be made to the main contractor?</p>
A11	<p>The issuance of the payment certificate and payments will be made in accordance to the main contract provisions or as advised by the government agencies.</p>
Q12	<p>When should main contractor pay the subcontractors or suppliers the advance payment?</p>
A12	<p>The main contractor shall pay the advance payment to subcontractors or suppliers according to the terms stated in their respective subcontracts. Within 14 days from the receipt of the Payment Certificate for the advance payment from the Government agency, the main contractor shall submit Payment Responses issued to subcontractors or suppliers, to the Government agency.</p>

FAQ for One-off Advance Payment for Public Sector Construction Contracts Affected by the Extended Circuit Breaker (from 5 May 2020 to 1 Jun 2020)

Q13 A13	<p>Can the main contractor request for a security deposit (SD) or performance bond from subcontractors or suppliers for the advance payment?</p> <p>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.</p> <p>To minimise risks, if the advance payment amount to the 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 advance payment provided. During this difficult period, we appeal to all members of the construction sector to support each other. Without the advance payment, some subcontractors or suppliers could face cashflow problems and may become insolvent.</p> <p><i>[Amended as at 1 Jun 2020]</i></p>
Q14 A14	<p>What if the main contractor does not pass down the advance payment to their subcontractor or supplier?</p> <p>Where a main contractor fails to pass on the advance payment to its subcontractors or suppliers, the advance payment shall be recovered in full in the next immediate progress payment. The main contractor's performance assessment in the project C41 report will also be accorded a "Poor" rating by the Government agency.</p> <p>BCA may review the CRS registration of the CRS registered contractor if BCA receives any feedback on the contractor failing to pass down the advance payment received.</p>