

Security of Payment Newsletter Content – February 2020

The Australian Building and Construction Commission (ABCC) is writing to Code Covered Entities (CCEs) to request information for their Security of Payment audit.

The ABCC has national responsibility under the *Code for the Tendering and Performance of Building Work 2016* (2016 Code) to ensure 2016 Code CCEs pay their subcontractors on time. Australian Building and Construction Commissioner Stephen McBurney explains the ABCC's role in SOP in this [short video](#).

The Commonwealth Government invests billions of dollars in construction work across the country and has a strong interest in ensuring that that work is carried out fairly, efficiently and productively. And that means subbies getting paid on time.

If you don't pay your subbies on time, you risk being prevented from tendering for future work and reputational damage as a non-payer – so do the right thing.

There is an entrenched culture of disputed or delayed progress payments to subbies in the Australian construction industry. The Department of Jobs and Small Business [Payment practices in the construction industry report](#) revealed three quarters of Australian building and construction industry subcontractors surveyed said at least 40 per cent of their invoices were paid late. The December 2017 report also referred to an Australian Small Business and Family Enterprise Ombudsman survey which found 50 per cent of construction businesses reported they were at increased risk of insolvency/liquidation as a result of late payments (above the all-industry average of 35 per cent). This is not fair, efficient or productive.¹

CCEs are required to report delayed or disputed payments to the ABCC as part of their obligations under the Code.

If you receive a letter from the ABCC, you should respond and supply details of all disputed and delayed progress payments and a sample of payment claims, payment schedules, contracts and proof of payment as requested.

It is quick and easy to report delayed or disputed payments to the ABCC via the [new streamlined online reporting form](#); it takes just minutes to complete.

CCEs who don't report delayed or unpaid payments to the ABCC risk sanctions including prevention from tendering for Commonwealth-funded building work for a period of time.

A Victorian company was excluded from tendering for Commonwealth-funded building work for the entirety of May 2019 because they didn't pay a subcontractor and failed to resolve the payment dispute in a reasonable, timely and cooperative way.

If you aren't sure where you stand, the ABCC is there to help. Visit the [ABCC website](#) to book a free presentation, [download fact sheets, flyers, checklists or booklets](#) or give them a call on 1800 003 338

Failure to comply with the ABCC's request for information audit letter will result in further compliance activities.

¹ Review of Security of Payment Laws, Building Trust and Harmony, J Murray, December 2017, page 14 & 15