



## Industry Fact Sheet

# Extending Prompt Payment to Public Works Act (PWA)

The Government of Alberta is pleased that the PWA amendments create a prompt payment and adjudication framework for public works construction projects<sup>1</sup>. This fact sheet is intended to inform industry stakeholders of the key changes to the PWA to ensure successful implementation of the rules on all new contracts starting on or after April 1, 2025.

### Proper Invoicing Requirements

- A proper invoice requires the following information:
  - name and business address of the sub/contractor,
  - date of the proper invoice and the period during which the labour or services were provided,
  - information identifying the labour or services provided during that period,
  - breakdown of the requested payment(s) amount,
  - name, title, and contact information of the person to whom the payment is to be sent, and
  - statement indicating that the invoice provided is intended to constitute a proper invoice and the date that the payment is due.
- Proper invoice(s) must be given as applicable, at least every 31 days after the work begins under the relevant contract or sub-contract.

### Payment Timelines

- **Crown to contractor** – The Crown who receives a proper invoice from a contractor must pay the undisputed payment amount no later than 28 days after receiving the proper invoice.
- **Contractor to subcontractor** – A contractor who receives a proper invoice from a subcontractor must pay the undisputed payment amount no later than 35 days after receiving the proper invoice.
- **Subcontractor to subcontractor** – A subcontractor who receives a proper invoice from a subcontractor must pay the undisputed payment amount no later than 42 days after receiving the proper invoice.

### Testing and Commissioning

- The amendments maintain the ability to require certification before issuing a proper invoice.
- Public works contracts that require testing and commissioning still need to issue a proper invoice every 31 days for the portion of the contract that does not require certification for testing and commissioning.

### Interest on Late Payments

- Interest under the *Judgment Interest Act* begins to accrue on any amount owed by any party under a proper invoice that remains unpaid for more than 45 days after the date of receiving the proper invoice.

### Notice of Claim

- With the changes to the legislation, the parties involved can choose to adjudicate a notice of claim under the PWA.
- Parties may still rely on any dispute resolution procedures in their own contracts. The Crown also continues to maintain its own contractual Dispute Resolution Process, which includes options for negotiation, adjudication, arbitration, and court.
- The amendments also have a limit to the amount that can be adjudicated. Therefore, if a payment dispute is higher than the legislated amount, it must be resolved through the normal PWA claims process or other contracted provisions such as arbitration.

### Adjudication Procedure

- Adjudication has been added as an alternative dispute resolution mechanism through the changes to the PWA.
- An adjudication may be commenced within 180 days after the delivery of a notice of claim.
- The PWA will mirror the new *Prompt Payment Construction Lien Act* (PPCLA) amendments regarding parallel proceedings whereby the adjudication process can run in parallel to arbitration or an action in court until a judge orders a stay on the proceeding or renders the application unnecessary if a decision is made by the courts.

### Nominating Authority

- Any designated Nominating Authority under the PPCLA will also be the authority to administer adjudications on public work projects.
- The Crown requires notification of when an adjudication process begins and ends in the event there is a demand made against the Crown.

### Adjudication Process

- An adjudication may be commenced until:
  - a determination of the dispute is made in court,
  - after 180 days have passed from the delivery of the notice of claim, or
  - a notice is given to the contractor and surety by the Crown after 30 days as provided in section 15(1).
- The only disputes that can be referred to adjudication must be for payment for work or materials provided

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<sup>1</sup> [Key Changes – Public Works Act](#)

under a contract or subcontract, not other disputes that arise during a public work project.

- The adjudication provisions include a monetary limitation to the maximum amount referenced in section 9(1)(i) of the *Court of Justice Act*. The current maximum is \$200,000.

### Exempted Contracts

- Capital asset upkeep contracts that relate to the management or reasonable care and maintenance of a capital asset are exempt from prompt payment and adjudication provisions.
- Capital Asset Upkeep does not include:
  - the contractor doing repair or prevention beyond the normal and reasonable wear and tear;
  - the contractor doing capital maintenance and renewal;
  - the achievement of any construction milestone such as completion, acceptance, or warranty construction; and
  - extending the normal life or improving value of a capital asset.

- Examples of contracts that are exempt would be cleaning windows, maintaining boilers/furnaces, and snow shovelling.
- Examples of contracts that are not exempt would be window replacement, boiler/furnace replacement, and creating a green space.

- Special scope contracts, which are contracts where a contractor provides financing with respect to a public work, are also exempt from prompt payment and adjudication provisions.
  - These include public-private partnerships (P3s) where government does not provide funding for construction and only provides funds at specific milestones.
  - The recommended solution is to include the requirement for prompt payment rules in P3 contracts.

### Impacted Contracts

- All Government contracts entered into on or after April 1, 2025.
- All job sites will be expected to display the specific exemptions in this Act for additional clarity on which rules apply.

For any questions, please contact [INFRA.Policy@gov.ab.ca](mailto:INFRA.Policy@gov.ab.ca)