

ALBERTA Trade Contractors Coalition

#204, 2725 12 St NE, Calgary, AB T2E 7J2 Phone 403 250 7237

September 27, 2018

Honourable Brian Malkinson
Minister of Service Alberta
Government of Alberta

Re: Follow-up to meeting on Prompt Payment Legislation

Dear Minister Malkinson,

It was a pleasure meeting with you on Tuesday morning to discuss moving forward with stakeholder consultations in support of the implementation of prompt payment legislation.

The Alberta Trade Contractors Coalition (ATCC) represents more than 10 provincial trade associations which collectively, represent 1000s of construction trade contractor businesses, from 1-man shops to companies with 100s of employees, and thus, 10s of thousands of employees working within every electoral district in Alberta. The ATCC is committed to making prompt payment legislation a reality in support of these companies, who finance and, ultimately do over 80% of the work required for all construction projects in Alberta. Reducing the risk and uncertainty these companies face on every job, because they don't have adequate protection to ensure they get paid in a timely manner, will ensure they can hire employees with certainty, provide high quality training and pay competitive salaries. Prompt payment legislation is the right thing to do and will deliver a win-win-win for the Government of Alberta.

We discuss several specific items in our meeting, including:

1. Would ATCC support a third party (i.e.: law firm) or in-house, government lead, stakeholder consultation?

The ATCC indicated we will support either process, third party or in-house. However, we are adamant that whom ever does the consultation should utilize the extensive work published by Reynolds and Vogel. They identified most stakeholders who will want to be consulted and they have identified most of the concerns and subsequent solutions that will be brought forward. While there will be some issues unique to Alberta and any draft legislation will need to be considerate of our distinct laws, it is ATCC's opinion that there will not be enough distinct concerns brought forward to justify reworking the entire prompt payment platform. The construction industry in Alberta and our governing law are just not that different from the rest of those in Canadian society.

2. Should the consultation review include a review of the Alberta Construction Lien Act?

The ATCC is comfortable with the inclusion of the Lien Act in a stakeholder consultation and ensuring that prompt payment legislation can work within the Lien Act framework. As we indicated, prompt payment legislation is ATCC's priority; reform of the Construction Lien Act is a close second. That said, if your department finds that prompt payment legislation can stand alone, the ATCC would be very supportive of that position.

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3. How long should a stakeholder consultation process take to complete?

It is the opinion of the ATCC members that a thorough consultation, that can provide all entities with legitimate concerns, ample time to provide input, analyse responses and submit additional responses, should take no longer than 6 months.

If the government chooses to extend the stakeholder consultations over a longer term, we believe you will be catering directly to interest groups who benefit from operating their business on the backs of trade contractors and their employees. Those who benefit from delaying payment without cause, believe the longer they delay the consultation process from starting and from being completed, the less chance there is legislation will ever be passed.

Once again, we believe the work of Reynolds and Vogel in Ontario and more recently with Services and Procurement Canada has set the prompt payment and dispute adjudication bar at a level to which the rest of Canada must strive. The Alberta Government would need to invest very heavily to replicate their work and ultimately, end with close to the same results. The ATCC recommends the law firm of Borden Ladner Gervais LLP, Calgary as a qualified law firm to lead a stakeholder consultation, if that is the direction you choose to take. We believe they have the expertise and the connection to Reynolds and Vogel needed to complete a thorough, independent stakeholder consultation.

As indicated, the ATCC is willing to work with you to achieve prompt payment legislation in whatever capacity that we can reasonably accommodate. The ATCC, and our members from across Alberta, are eager to make this legislation a reality so we have the tools needed to ensure timely payment for our work.

We look forward to learning the results of your deliberations and ultimately, to your announcement of a stakeholder consultation to determine the scope, terms and conditions of prompt payment legislation in Alberta.

Best regards,



Terry Milot
Chairman



Russ Evans
General Manager