

13 October 2021

Dear Sir/Madam,

CIRCULAR ON EX-GRATIA PAYMENT TO CONSULTANTS DUE TO PROLONGATION OF CONSTRUCTION PERIOD

This circular informs the Built Environment (“BE”) sector that the public sector will be providing ex-gratia payment to consultants for additional services rendered during the prolonged construction period due to COVID-19.

Background

2 COVID-19 has been an unprecedented event impacting the various stakeholders across the BE value chain. Consultants, as a key stakeholder of the BE value chain are also not spared from the sustained impact of COVID-19. Construction projects have been prolonged beyond the usual delay period that consultants may have expected when they tendered for the contracts. During the prolonged construction period, consultants had to provide additional services (e.g. more certification of progress payments, additional supervision works and coordination meetings to attend) over a longer period of time, beyond the original construction duration.

3 As the typical consultancy agreement adopted by government agencies does not have provisions on remuneration for such additional services, the Government will be providing ex-gratia payment to consultants for the additional services rendered over the prolonged construction period.

Eligibility

4 The ex-gratia payment for additional services rendered during the prolonged construction period **will apply to construction related consultancy contracts** (i.e. architectural, civil & structural engineering, mechanical & electrical engineering, project management, quantity surveying) **called on or before 1 October 2020**. However, for consultancy contracts that are based on percentage-fee, and where the corresponding construction contract was awarded on or after 1 October 2020 with increased construction tender prices, government agencies would assess whether ex-gratia payment is needed as consultancy fees would have increased due to the rising construction tender prices.

Details of Ex-gratia Payment to Consultants

5 The ex-gratia payment is applicable to the following item:

Item	Examples
Standard Additional Services (i.e. work scope typically performed by the consultant on a monthly basis during the construction stage)	Supervision of works on site, maintaining site records of the works, evaluating and issuing monthly progress payments, attending regular project meetings etc.

6 Consultants are eligible for ex-gratia payment¹ for the above-mentioned item only when additional services under para 5 have been rendered. The eligibility, remuneration and implementation details are as follows:

i) Eligibility²: Only consultants involved in the construction stage of on-going construction contracts would be eligible for this round of ex-gratia payments

- **Example 1:** Government Agency called for Multi-disciplinary Team (MDT) consultancy services (i.e. more than 1 discipline) and the project is currently in the construction stage. All the consultants would be eligible for this round of ex-gratia payments.
- **Example 2:** Project is currently in the piling stage, and the piling contract only involves specific disciplines (e.g. Civil and Structural (CS) and Quantity Surveying (QS)), while the other disciplines are still working on the tender stage for the main contract. Hence, only CS and QS consultants are eligible for ex-gratia payments until the works under other disciplines have reached the construction stage.

ii) Remuneration Approach: Government agencies are to adopt the following formula based on the estimated monthly payment received by the consultant during the construction stage, for the computation of the remuneration quantum:

Estimated Monthly Payment for Stage 4 of Annex C ³ of the Standard Consultancy Agreement	x (Approved Extension of Time (EOT) Duration Granted to Contractor for Delay Arising from COVID-19	-	Months of Pro- rated support from JSS ⁴)
--	-----	---	---	--	---

Note: Please refer to Annex A for an illustration of the computation.

iii) Payment Implementation: The intent of this ex-gratia payment was to provide support and facilitate consultants' cashflow. Thus, **government agencies' support is sought to expedite the disbursement of the payment under Tranche 1 EOT⁵**, where possible (e.g. include the ex-gratia payment in their next payment to consultants). As this is an ex-gratia payment, there is no need for the consultant to substantiate or put up claims. The amount of JSS support to be deducted for Tranche 1 and subsequent tranches are as shown in the table below. Government agencies may refer to Annex B for illustration of scenarios where the months of JSS support is required to be pro-rated.

¹ GST is not applicable to ex-gratia payments. Hence, consultants, if GST registered, should not issue tax invoices to government agencies for this ex-gratia payment.

² Accredited Checkers (AC) and engineering consultants engaged to provide supervision work for structural works only are generally not eligible for this round of ex-gratia payment. Pls see FAQ Q3 for more details.

³ Stage 4 of Annex C refers to the 'Construction Stage' of Annex C – Payment Schedule of the Standard Consultancy Agreement. If GPE uses a modified Payment Schedule, GPE should estimate the monthly payment payable to the consultant during the construction stage based on the original construction contract duration, not the extended construction duration after the EOT.

⁴ This took into account the support provided to consultancy firms under the Jobs Support Scheme (JSS) for wages from Oct 2019 – Jun 2021. For more details on the JSS provided to BE firms, please refer to <https://www.iras.gov.sg/iras/home/schemes/businesses/jobs-support-scheme--JSS-/>.

⁵ Based on the Contractor's universal EOT of 122 days granted under COTMA Part 8A and 49 days ex-gratia common EOT

Period for which the construction works covered and EOT already certified	Months of Pro-rated support from JSS
Tranche 1 (EOT period from Apr to Dec 2020)	
7 Apr 2020 to 6 Aug 2020	2.5 months
7 Aug 2020 to 31 Dec 2020	1.5 months
Subsequent tranches (EOT period from 1 Jan 2021)	
1 Jan 2021 to 30 Jun 2021	1 month
From 1 Jul 2021 onwards	No deduction

Private Sector Consultancy Contracts

7 While this circular is effective for public sector consultancy contracts, ***other BE sector clients such as private sector developers and contractors in Design & Build (D&B) projects are encouraged to adopt similar ex-gratia payments*** to provide remuneration to their engaged consultants.

Clarifications

8 For clarification on this circular, please direct your queries to <https://www.bca.gov.sg/feedbackform/>.

Thank you.

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

(Transmitted via email)

Annex A – Illustration of Computation of Remuneration for Item (a) – Standard Additional Services

Assumptions for illustration purposes:

- Construction project value = \$50 million
- Consultants fee = 2% (i.e. \$1 million)
- % of Fees for Stage 4 of Annex C of Standard Consultancy Agreement = 30%
- Original construction duration = 30 months
- Approved EOT duration granted to contractor for delay arising from COVID-19 under Tranche 1 = 180 days

Period for which the construction works covered and EOT already certified	EOT certified	Months of Pro-rated support from JSS
Tranche 1		
7 Apr 2020 to 6 Aug 2020	122 days	2.5 months
7 Aug 2020 to 31 Dec 2020	58 days (49 days of minimum EOT + 9 days as assessed by agency)	1.5 months
Subsequent tranches		
1 Jan 2021 to 30 Jun 2021	Still under assessment	No deduction
From 1 Jul 2021 onwards	Still under assessment	Not applicable
Total	180 days	4 months (120 days)

Computation of ex-gratia payment payable:

$$(\$50 \text{ mill} \times 2\% \times 30\% / 30 \text{ months}) \times \left(180 \text{ days} - \frac{4 \times 30 \text{ days}}{30} \right) / 30 = \$20,000$$

The remuneration quantum for Standard Additional Services is \$20,000 under Tranche 1.

Annex B – Illustration of Scenarios Where JSS Support is Required to be Pro-rated

Suppose the construction works were completed on 31 Oct 2020, GPE would then be required to pro-rate the support from JSS for deduction purpose:

Period for which the construction works covered and EOT already certified	Months of Pro-rated support from JSS
7 Apr 2020 to 6 Aug 2020	2.5 months
7 Aug 2020 to 31 Dec 2020	$(85 \text{ days} / 146 \text{ days}) * 1.5 \text{ months}$ $= 0.87 \text{ months}$ <i>(Note: 85 days refer to the no. of days from 7 Aug 2020 to 31 Oct 2020 (i.e. completion date))</i>
1 Jan 2021 to 30 Jun 2021	Not applicable
From 1 Jul 2021 onwards	Not applicable
Total	3.37 months

FREQUENTLY ASKED QUESTIONS (FAQs)

Q1. What is the rationale for the eligibility criteria, where only consultancy contracts called on or before 1 Oct 2020 are eligible for the ex-gratia payment?

A1. Based on BCA's Tender Price Index (TPI) data, construction tender prices had escalated from 4Q2020 onwards as contractors had factored in the additional cost due to shortage of manpower, increase of materials cost and other factors caused by the pandemic. Consultants should similarly be aware of the impact of COVID-19 and had priced their fee accordingly for tenders called beyond 1 October 2020, after taking into consideration of the likely impact on the construction period. In addition, consultancy contracts called after 1 Oct 2020 would only commence construction in later part of 2021, in which the impact of COVID-19 on the construction period would be less as compared to those ongoing construction contracts awarded before 1 Oct 2020.

Q2. Why are consultancy contracts based on percentage-fee with corresponding construction contract awarded on or after 1 October 2020 subjected to GPEs' discretion of not adopting the stipulated formula?

A2. For consultancy contracts based on percentage-fee, the final consultancy fee would be determined based on the final construction cost. Hence, as TPI has escalated in 4Q2020, consultants paid based on percentage-fee would have their final consultancy fee adjusted upwards in view of the higher construction cost due to the impact of COVID-19.

Q3. In general, why are Accredited Checkers (AC) and engineering consultants engaged to provide supervision work for structural works only not eligible for this round of ex-gratia payment?

A3. For AC, it is unlikely for their work scope to be impacted by project prolongation. As for engineering consultants engaged to provide supervision services for structural works only, the costs incurred are typically reimbursed by the Employer for the entire construction duration. However, if GPE assesses that such consultants have provided additional services during the prolonged construction period arising from COVID, GPE can seek BCA's concurrence to provide such ex-gratia payment.

DISTRIBUTION (via e-mail)

President
Association of Consulting Engineers Singapore (ACES)
18 Sin Ming Lane
#06-01 Midview City
Singapore 573960
secretariat@aces.org.sg

President
The Institution of Engineers, Singapore (IES)
70 Bukit Tinggi Road
Singapore 289758
ies@iesnet.org.sg

President
Real Estate Developers' Association of Singapore (REDAS)
190 Clemenceau Avenue
#07-01 Singapore Shopping Centre
Singapore 239924
redas_secretariat@redas.com

President
The Singapore Contractors Association Limited (SCAL)
Construction House
1 Bukit Merah Lane 2
Singapore 159760
enquiry@scal.com.sg

President
Singapore Green Building Council (SGBC)
200 Braddell Road, BCA Braddell Campus, Block H, #02-04
Singapore 579700
enquiry@sgbc.sg

President
Singapore Institute of Architects (SIA)
79 Neil Road
Singapore 088904
info@sia.org.sg

President
Singapore Institute of Building Limited (SIBL)
9, Ah Hood Road, #02-04
Singapore 329975
info@sibl.com.sg

President
Singapore Institute of Surveyors & Valuers (SISV)

110 Middle Road
#09-00 Chiat Hong Building
Singapore 188968
sisv.info@sisv.org.sg

President
Society of Project Managers (SPM)
200 Braddell Road, BCA Braddell Campus, Block H, Level 2
Singapore 579700
info@spm.sg

All companies registered or listed in BCA's Public Sector Panels of Consultants (PSPC)