

October 30, 2017
By email: minister@pwgsc.gc.ca

The Honourable Carla Qualtrough, P.C., M.P.
Minister of Public Services and Procurement
Place du Portage, Phase III R 18A1
11 Laurier Street
Gatineau, Quebec K1A 0S5

Dear Minister Qualtrough:

On behalf of the Ontario General Contractors Association (OGCA), I would like to congratulate you on your appointment as Minister of Public Services and Procurement. OGCA is very supportive of your mandate to ensure the prompt payment of contractors and subcontractors who conduct business with your department. We look forward to working with you and your department to develop an effective, consultative prompt payment process.

OGCA's seven decades of experience in the industrial, commercial, and institutional construction industries has informed our position on the importance of a prompt payment process. OGCA represents the interests of 183 Ontario-based and national general contractors who regularly do business with the federal government and its infrastructure initiatives. We believe that any approach to prompt payment should be consultative and transparent, and also take into account the complex, operational realities for the contractors and subcontractors involved in federal projects. As disputes may invariably arise in construction projects, it is important to ensure that the framework involves a fair and impartial adjudication process – and that it does not financially or operationally disadvantage the proponents of a project.

OGCA is participating in the Government of Ontario's process for developing prompt payment legislation (Bill 142 – *Ontario Construction Lien and Amendment Act, 2017*). This process is consultative and achieves the broadest possible support among stakeholders in the drafting of legislation. Importantly, the Ontario process was developed by an in-depth, third party review of payment concerns and challenges.

OGCA is supportive of the Canadian Construction Association's recommendations to develop such a process federally – and we strongly believe that your mandate could best be fulfilled by this approach. By bringing all the stakeholders together in an inclusive consultation process, we are convinced that an effective prompt payment solution with broad support will be the result, as is underway in Ontario.

Importantly, we are aware that there is privately-sponsored prompt payment legislation (Senate Bill S-224) awaiting adoption in the House of Commons. We believe this legislation provides an insufficient prompt payment framework and does not have broad support among stakeholders. It does not create a clear, fair, or adequate adjudication process, nor does it account for the complexities of construction contracting. We do not support this legislation and would prefer to see the Government of Canada adopt a more consultative approach to develop a prompt payment framework and implement your mandate from the Prime Minister.

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Minister Qualtrough, the OGCA has been very involved in the construction payment issue in Ontario for many years and is committed to implementing solutions with the federal government that work for all stakeholders. Our 183 members account for approximately 70% of Ontario's Industrial, Commercial and Institutional construction projects and all Alternative Finance Projects; our membership includes small, medium, and large firms representing both union and open-shop contractors.

Once again, Minister Qualtrough, congratulations on your appointment. OGCA welcomes the opportunity to engage with you, Public Services and Procurement Canada, and the Government of Canada in the development of an effective, informed prompt payment framework. We will follow up on this correspondence with a more detailed briefing note on our position in the near future.

Sincerely,

ONTARIO GENERAL CONTRACTORS ASSOCIATION

A handwritten signature in black ink, appearing to read "Clive Thurston". The signature is fluid and cursive, with a large initial "C" and a stylized "T".

Clive Thurston

President