Mechanical Contractors Association
of British Columbia

204 - 1275 West 6th Avenue, Vancouver, BC,
V6H 1A6

Office 604-205-5058
Email info@mcabc.org
Website www.mcabc.org

July 6, 2026

Bobbi Plecas
Deputy Minister
Ministry of Infrastructure
Parliament Buildings
Victoria, BC V8V 1X4

VIA Email: Bobbi.Plecas@gov.bc.ca and Engage.INF@gov.bc.ca

Re: Discussion Paper, Construction Prompt Payment Act

Dear Bobbi Plecas,

On behalf of the Mechanical Contractors Association of British Columbia (MCABC), I am pleased to submit our formal response to the *Construction Prompt Payment Act (CPPA) Discussion Paper.*

This submission builds upon our recent meeting with the Ministry of Infrastructure and the Ministry of the Attorney General, including engagement with Brittany Schina and Katie Armitage at the MCABC Leadership Conference on June 10-11, as well as the MCABC Coffee Talk hosted with Brittany, Katie and Maria D'Archangelo on June 23. We appreciate the opportunity to contribute to this important consultation and to provide the perspective of BC's mechanical contracting industry.

MCABC represents an industry that contributes, directly and indirectly, $10 billion to BC's GDP, generates $3 billion in wages and supports more than 53,000 jobs, including more than 25,000 skilled tradespeople working in Construction's 11 primary trades, including plumbing, pipefitting, sheet metal, refrigeration, sprinkler fitting, and related trades that are essential to the delivery of housing, healthcare, industrial facilities, institutional infrastructure, and community development throughout the province.

MCABC has more than 160 member companies – ranging from small family-owned businesses to large employers operating across BC and other provinces – that are both union and open-shop. Collectively, these companies play a critical role in delivering the infrastructure and building projects that support economic growth and community well-being.

By way of example, over the next three years alone, more than 500 mechanical tradespeople will be working on the new Surrey Hospital and BC Cancer Centre, supported by another 150 people in project management, fabrication and administration.

As one of the leading advocates for prompt payment legislation over the past decade, MCABC is strongly committed to ensuring that the regulations are clear, consistent, practical and enforceable.

As we noted during our April meeting with Minister Bowinn Ma and representatives from the Ministry of Infrastructure, evolving market conditions have, in some cases, created significant challenges for contractors, placing financial strain on businesses, and in some cases, resulting in serious consequences for employees and project delivery. It is therefore critical that implementation of the regulatory framework proceed in a timely and effective manner following the Ministry's review and assessment process this summer.

This submission is formally endorsed by MCABC's Board of Directors and is supported by industry-related organizations and select MCABC member companies.

Thank you for including MCABC in this important consultation. We value the collaborative approach the Province has taken and we look forward to continuing our engagement as the regulations are developed and implemented. We remain committed to working with government to ensure that prompt payment legislation achieves its intended objectives and delivers tangible benefits to BC's construction industry and workforce.

Sincerely,

Kim Barbero
CEO

Black&McDonald

Kyle Wisniewski
General Manager

PHASE
PEOPLE INTEGRITY QUALITY

Trevor Hildebrand
President

CONCEPT
MECHANICAL GROUP

Brittany Manulak
Principal

KAL-WEST
MECHANICAL SYSTEMS INC.

Keith Pearce
President

Maddie Davidson
Business Manager

Blaire Masztalar
Manager

Steve Robinson
President

Eddie Vaughan
Owner

Tania Johnston
Chief Executive Officer

Ken Lancastle
Chair

Jeremy Hallman
Executive Director

Al Phillips
Business Manager

Catherine Gallant
Sr. Administrative Assistant

Scott Kenward
Senior Project Manager

Victaulic

Tayler Hinger
Sales Manager

INLAND TECHNICAL SERVICES LTD.

Luke Buis
Owner

HAAKON HVAC SERVICES
A different kind of HVAC Service Company

Jack Hole
Managing Partner

LISI MECHANICAL CONTRACTORS LTD.

Joe Buccella
Vice President &
General Manager

RMI

Brad Wightman
President

GENESIS building controls

Trent Novakowski
General Manager

MAJOR WELDING.com

Chris Lamb
General Manager

PRO West Sales

Pierre Huneault
Mechanical Sales
Manager

COOL AIR™ RENTALS LTD

Gordon Penrose
COO

UBS INDUSTRIES

Lou LaPlante
Sales

Jay Mallan
Owner

Luka Elezovic
Principal

Craig White
Senior Territory Manager

Sandra LeNoble
Vice President

Andrew Wong
President

Earl Storey
Account Manager

Amir Tehrani
President

Hogan Steiss
Owner

Jeff Carey
General Manager

Jason Collett
President

cc:
Honourable Bowinn Ma, Minister of Infrastructure, INF.Minister@gov.bc.ca

Brittany Schina, Director of Partnerships, Infrastructure Policy & Partnerships Division, Ministry of Infrastructure, Brittany.Schina@gov.bc.ca

1. Application & Coming into Force

Application

Q1: ***Do you agree that for the Act to be as effective as possible, it should apply as broadly as possible?***

A1: Yes, the effectiveness of the Act depends on its broad, consistent and universal application across all sectors, companies, and projects – both public and private. A single framework for British Columbia is essential to providing payment certainty, fairness and consistency for company owners/employers and skilled tradespeople whose expertise and labour are transferable across sectors.

MCABC represents construction's 11 primary trades, with member companies operating across the Industrial, Commercial, Institutional (ICI) and Residential sectors. Broad application of the Act will support a level playing field, reduce administrative complexity, and promote continued and cross-sector growth and investment in the mechanical contracting industry in BC.

Q2***: Are there any unusual or limited instances where it would be impossible to meet the requirements of the Act and an exemption would be required? If so, please provide a detailed rationale.***

A2: No. It is hard to imagine circumstances in which payment certainty should not be honored. MCABC does not support exemptions to the Act. The principle of prompt payment is straightforward and universally applicable: Contractors and Subcontractors should receive timely payment for work that has been performed. Creating exemptions would undermine the consistency, certainty, and effectiveness of the legislation and could introduce unnecessary complexity, disputes, and inequity within the construction payment chain.

Approach to Coming into Force – To support certainty and industry readiness

Q3: Do you agree with bringing the Act into force in full at one time versus a phased approach?

A3: Yes. The Act should be brought into force in its entirety at one time. Payment certainty should apply equally to all construction projects, regardless of sector, project size, ownership model, or company size. A phased implementation would create unnecessary confusion, inconsistent application, and administrative burdens, while potentially delaying the benefits the legislation is intended to deliver. Full implementation from the outset will provide clarity, certainty, and a level playing field for all participants in the construction industry.

2. When a Record is Given or Issued, or a Payment is Made

Q1: How does the construction industry generally determine when an invoice has been "given" or "delivered" to an owner?

A1: In current industry practice, an invoice is generally considered to have been "given" or "delivered" on the date it is transmitted electronically to the recipient. In most cases, the date of transmission corresponds with the date shown on the invoice. This requires clarity and formalization as part of the regulations. We recommend:

- the email transmission date be the date "given" or "delivered"
- that where electronic portals are used for invoice submission, the required fields be limited to those necessary to satisfy the definition of a Proper Invoice under the CPPA. Owners or contractors should not be able to create additional mandatory submission requirements that have the effect of delaying, rejecting, or invalidating an otherwise compliant Proper Invoice. Any additional information requested for administrative, project management, or reporting purposes should be optional or clearly segregated from the statutory Proper Invoice requirements to ensure certainty, consistency, and timely payment throughout the construction payment chain.

It is important to recognize that Mechanical Contractors may operate in different contractual roles. In many projects, they function as Subcontractors to General Contractors (GCs) and are not directly privy to the invoicing arrangements or schedules between the General Contractor and the Owner. In other circumstances, Mechanical Contractors act as the Prime Contractor and are directly responsible for invoicing the Owner. In both situations, electronic transmission is the prevailing method of delivery, and the invoice date typically serves as the date of transmission.

Q2: How does the construction industry generally determine when a payment has been "made"?

A2: A payment is generally considered to have been made when the recipient has received the funds with no restrictions. This occurs when:

- Electronic funds have been deposited into and are available within the contractor's bank account; or
- A cheque has cleared through the banking system and the funds are available to the contractor.

The payer bears the responsibility to ensure payment. From an industry perspective, payment should not be considered complete merely when it is initiated or sent. Rather, payment is effectively made when the recipient has received the funds and can reasonably access them.

Q3: If regulations are introduced to clarify these terms, should parties still be allowed to define these matters in their contracts?

A3: No. Key payment-related terms and definitions, including when an invoice is considered "sent," "delivered," "received," and when a payment is considered "made," should be established through regulation and applied consistently across the construction industry.

Allowing parties to redefine these terms through contract language could undermine the objectives of prompt payment legislation by creating uncertainty, inconsistency, and opportunities for dispute. Standardized definitions are essential to ensuring payment certainty, fairness, and predictability throughout the construction payment chain. Contract provisions should not be permitted to override or weaken these statutory requirements.

3. Calculation of Days

Q1: Do you agree that the calculation of days should be based on the rules in the Interpretation Act?

A1: Yes. MCABC agrees that the calculation of days under prompt payment legislation should be based on the rules set out in the *Interpretation Act* and align with the calculation of days for the purposes of the Builders Lien Act. *MCABC also believes that the release and payment of lien holdbacks must be subject to prompt payment requirements.*

Q2: If not, how should they be calculated?

A2: N/A

4. Interest on Late Payments

Q1: Are there impacts that we should be aware of with the interest rate on late payments being tied to the Supreme Court Registrar's guidelines?

A1: Yes. MCABC believes there would be significant adverse impacts if the interest rate on late payments were tied to the Supreme Court Registrar's guidelines.

The prescribed rate is generally set at two percentage points below the prime lending rate. As a result, the financial consequence of delayed payment may be less costly than traditional borrowing, creating a potential incentive for some parties to withhold payment and retain access to cash flow or investment capital for use on other projects or business activities.

Contractors and subcontractors are disproportionately affected by delayed payment. While they must continue to meet payroll, supplier obligations, equipment costs, and other operating expenses, they often have limited access to affordable financing. In many cases, they are forced to rely on credit facilities at interest rates substantially higher than the prescribed rate or absorb the financial burden themselves.

The resulting cash flow pressures can contribute to increased project costs, workforce reductions, business insolvencies, receiverships, and bankruptcies. Ultimately, these impacts are felt throughout the construction industry and can lead to higher overall costs for owners and project stakeholders. A prompt payment regime should establish a late-payment interest rate that acts as a meaningful deterrent to payment delays and reinforces the objective of ensuring timely payment throughout the construction payment chain.

Q2: If not tied to the Supreme Court Registrar, how should the rate be established?

A2: MCABC recommends adopting the well-established interest provisions already contained within Canadian Construction Association (CCA) and Canadian Construction Documents Committee (CCDC) standard contract documents.

The CCA and CCDC have long recognized industry-standard interest rates for overdue payments, which are widely understood and accepted by owners, contractors, subcontractors, consultants, and other participants in the construction sector. Incorporating these established rates into the prompt payment framework would provide consistency with existing industry practice and eliminate the need to develop a new methodology.

For projects or sectors that do not utilize standard CCA/CCDC contract documents, the same prescribed late-payment interest rates should apply through regulation. Establishing a uniform approach across the industry promotes fairness, certainty, and predictability while ensuring that all parties are subject to the same consequences for delayed payment, regardless of the form of contract used.

5. Adjudicators' Qualifications & Fees

Qualifications

Q1: What minimum qualifications should adjudicators in B.C. be required to have?

A1: MCABC recommends that the minimum qualifications for adjudicators in British Columbia closely align with those established in Ontario through the Ontario Dispute Adjudication for Construction Contracts (ODACC) certification process: [ODACC Adjudicator Certification Process Ontario Guide - odacc.ca].

Ontario has developed a comprehensive and proven adjudicator certification framework that supports consistency, fairness, and confidence in the adjudication process. Adopting a similar model in British Columbia would promote national consistency, reduce administrative burden, and allow the province to leverage an established best practice rather than creating a new framework from the ground up.

At a minimum, adjudicators should possess demonstrated expertise in construction.

Q2: Should B.C.'s qualification requirements be similar to those used in other Canadian jurisdictions?

A2: Yes. Ideally, MCABC would support harmonizing British Columbia's adjudicator qualification requirements with all other Canadian jurisdictions, but there currently is not consistency. Our strong recommendation is that we align with Ontario.

Adopting a model that closely reflects another existing Canadian best practice will help accelerate implementation while maintaining a high standard of competence and professionalism.

Q3: Are there any qualifications or continuing education that should be required that are specific to B.C., such as cultural competency or other specialized training?

A3: MCABC supports continuing education requirements that enhance an adjudicator's ability to effectively administer and apply British Columbia's prompt payment legislation. Training should be directly related to the adjudicator's role and responsibilities under the Construction Prompt Payment framework and should focus on maintaining competency in areas such as legislative interpretation, dispute adjudication procedures, construction contracting practices, and evolving industry standards.

Any specialized training requirements should be relevant to ensuring fair, efficient, and consistent adjudication outcomes and should not create unnecessary barriers to the development and retention of qualified adjudicators.

Fees

Q1: What factors should be considered in establishing appropriate fee amounts for adjudications?

A1: MCABC recommends that British Columbia adopt a fee structure comparable to that used in Ontario rather than developing an entirely new model: ODACC Adjudication Fees Breakdown and Guidelines - odacc.ca.

Ontario's filing and adjudication fee framework is established, transparent, and familiar to many industry participants. Aligning with a proven fee structure would promote consistency, provide cost certainty, and simplify implementation. Fees should be predictable, proportionate to the value and complexity of disputes, and structured in a manner that does not discourage parties from accessing adjudication as a prompt and effective dispute resolution mechanism.

Q2: What considerations should be made to ensure adjudication is accessible?

A2: Accessibility is a critical component of an effective prompt payment adjudication system. The process must be designed to accommodate both large and small businesses, recognizing that smaller contractors and subcontractors may have limited administrative capacity and, in many cases, may already be experiencing financial strain due to the payment dispute giving rise to the adjudication.

To ensure broad accessibility, MCABC recommends that the adjudication process be streamlined, transparent, and easy to navigate. Key considerations should include:

- Online access to standardized, fillable forms and application materials.
- No minimum monetary threshold for commencing an adjudication.
- Clear publication of filing fees, adjudication fees, and related costs.
- Timely acknowledgement of applications, including a response within 48 hours outlining next steps and expected timelines.
- Prompt notification to the responding party upon commencement of an adjudication.
- Clear guidance materials and procedural resources to assist parties unfamiliar with the process.
- Fast, efficient timelines that minimize cost and administrative burden while preserving procedural fairness.

In addition, parties should be advised that retaliation or discriminatory business practices arising from the initiation of an adjudication are inappropriate and that legal remedies may be available where such conduct occurs. A successful adjudication regime must provide users with confidence that disputes can be raised and resolved without fear of reprisal.

MCABC believes that accessibility, affordability, and procedural simplicity are essential to ensuring the prompt payment framework achieves its intended objective of improving payment certainty throughout British Columbia's construction industry.

6. <u>Readiness & Industry Support</u>

Additional forms and industry support:

Q1: What standardized forms should be developed under the Act at the outset?

A1: MCABC recommends:

- A required form for a notice of non-payment
- A required form for a notice of adjudication
- A required form for a response to a notice of adjudication
- A required form for a notice of improper invoice

MCABC is not in favour of a prescribed Proper Invoice form.

Q2: What information should be part of the proper invoice?

A2: The Act clearly captures the information that should be included in the Proper Invoice.

Additional policy considerations to ensure success of the Act:

Q3: What, if any, considerations are missing from this discussion paper that would ensure the success of prompt payment legislation being implemented in B.C.?

A3: MCABC has consulted with other associations and supports the recommendations presented by the Electrical Contractors Association of B.C. and the British Columbia Construction Association.

Q4: What tools, data, guidance materials, or engagement mechanisms would support effective implementation of the Act?

A4: To support consistent application of the CPPA and facilitate a smooth transition to the new payment regime, MCABC recommends the Province implement the following measures:

a. **Establish a temporary one-year government-led implementation and information office.** Similar in function to the Office of the Registrar of Lobbyists, this office should serve as a central source of authoritative guidance and provide an accessible hotline or inquiry service to assist owners, contractors, subcontractors, and suppliers in interpreting and applying the new requirements.

b. **Deliver Comprehensive 'Train the Trainer' education sessions.** MCABC recommends that the Province develop and deliver comprehensive "Train-the-Trainer" educational sessions for construction and trade association leaders throughout British Columbia. These sessions should provide detailed instruction on the legislative requirements, payment timelines, notice requirements, invoice procedures, and adjudication processes established under the CPPA. Industry associations are well-positioned to act as trusted knowledge facilitators and can play a significant role in accelerating awareness and understanding among their members.

c. **Development of a prompt payment toolkit** with the specific fillable forms identified above (6.1)

d. **Maintain ongoing industry engagement following implementation.** MCABC further recommends that the Province establish a formal mechanism for ongoing engagement with industry associations and stakeholders during the first year of implementation. Regular feedback sessions would allow government to identify emerging issues, clarify areas of uncertainty, and assess whether additional guidance or regulatory adjustments are required to ensure the legislation achieves its intended objectives. This collaborative approach will help support successful implementation, foster industry confidence, and maximize the effectiveness of prompt payment reform across British Columbia's construction industry.