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Driving business success for consulting firms in the built and natural environment

28 February 2023

Payment Times Reporting Act Review Secretariat
Small and Family Business Division
Treasury
Langton Cres
Parkes ACT 2600

By email to: PaymentTimesReview@treasury.gov.au

Statutory Review of the Payment Times Reporting Act 2020

Consult Australia welcomes the opportunity to contribute to the Statutory Review of the *Payment Times Reporting Act 2020* (Cth) as well as the direct engagement we have had with the Reviewer Dr Craig Emerson at various policy forums such as that held by the Australian Small Business and Family Enterprise Ombudsman (ASBEFEO). Payment times is a critical issue to our member businesses, especially small businesses that rely on timely payments to pay their people and keep the business operating.

For context, Consult Australia is the industry association representing consulting businesses in design, advisory and engineering, an industry comprised of over 58,600 businesses across Australia. This includes some of Australia's top 500 companies and many small businesses (97%). Our members provide solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry directly employs over 285,000 people in architectural, engineering, and technical services and many more in advisory and business support. It is also a job creator for the Australian economy, the services we provide unlock many more jobs across the construction industry and the broader community.

Our small member businesses advise that they are often pressured to accept extensive payment time in contracts and that contract payment times are frequently ignored, or inflated due to internal processes by clients. Our members face these challenges from both private and public sector clients. We seek to empower member small businesses to push for efficient payment times, noting the Act and the acknowledgement of government clients around the country of the importance of paying suppliers on time. In 2020, we contributed to the submission on [Payment Times Reporting Framework](#) and highlighted that our small member businesses should be paid on time given the imbalance in market power between clients and consulting businesses. Extended payment times by clients put significant pressure on small businesses which sometimes results in members turning down large projects.

There are five key issues we would like to highlight for consideration:

- The need for all government clients to be covered or to buy-in to the scheme.
- The additional delays not captured by the scheme that can significantly extend payment times.
- How withholding payment is used to pressure business to accept new contract terms.
- The limited use of the register by our members.
- Removing onerous requirements of government clients which undermine fair payment times and increased use of e-payments.

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All government clients should be covered by the scheme

Government clients, particularly state government and local government clients make up a significant proportion of the client market for Consult Australia members. The Federal government needs to lead and encourage all government clients to buy-in to the scheme and pay suppliers on time (and stop the actions explored below that significantly extend payment times and induce stress for businesses).

Additional delays should be captured by the scheme

Clients often delay payments times because of internal processing. These processes are not considered by the scheme as part of the payment time but should be as they can significantly extend the time small businesses are waiting for payment. Members have noted that internal processing can add at least an extra month to the time a small business has to wait for payment after supplying the contracted services.

Therefore, Consult Australia recommends that the scheme sets the required payment time to run from when the invoice is received not processed.

Client tactics to withhold payments need to be discouraged

Consult Australia members have cited instances where government clients have withheld payment of fees until the small business has signed a new contract - even though the work has been completed and a contract was signed at the start of the work.

Member case study

A Consult Australia member business signed a contract with a government client for a \$5,000 job. At the conclusion of the job the government entity sent the small business a 100-page contract and withheld payment until the new contract was signed. To get legal advice on the contract, the business would likely spend more than what they earned for the job. There was no indication from the client that there were any issues with the services provided.

Consult Australia recommends that the government make clear to all clients that this behaviour is unacceptable.

Improve the register to increase usage

Currently, Consult Australia members do not regularly access the reporting scheme to make decisions on contracting with suppliers because of the information available and the lack of enforcement. Our small business members more likely rely on past experience with a client to decide whether to do business with them.

This was discussed in the ASBEFEO policy forum with participants highlighting the quality (or otherwise) of the data. Consult Australia supports improved data collection and improve enforcement, possibly through ASBEFEO who understand the issues that small businesses face.

Removing onerous requirements and increase use of e-payments

In the Policy Forum with the Reviewer and ASBEFEO Consult Australia was interested in the suggestion that wide use of e-payment/e-finance systems could assist in speeding up the process. To support this approach, we would need government departments to lead the way and simplify their onerous requirements which undermine fair payment times (as demonstrated by the member case study below).

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Member case study

A Consult Australia member business submitted a Tax Invoice for completed works for less than \$5,000 to the government client. The government client refused to accept the invoice instead required a particular form of 'Claim for Payment' accompanied by a Statutory Declaration and other supporting documentation.

Consult Australia proposes that any roll-out of e-payment comes with a commitment from government clients that relevant documentation can be simplified to reduce the processing of payment times.

Conclusion

In conclusion, Consult Australia supports the payment times reporting scheme and improvement to the scheme. We remain available to provide further member experiences to inform the review.

In the meantime Consult Australia's advocacy on contracting centres on the push for all public sector agencies to sign up to our [Model Client Policy](#) committing to act fairly and honestly while engaging with the market. Importantly the policy includes a commitment to paying consultants on time.

If you would like to discuss this submission, please do not hesitate to contact me directly at Kristy@consultaaustralia.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "K. Eulenstein".

Kristy Eulenstein

Head of Policy and Government Relations