



BULLETIN

BC Construction Association

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Dispute Resolution Under the CCA1 Contract

This is the first in a series of articles that will look at some of the key differences between the BCCA200 standard form contract and its replacement, the CCA1. These articles have been prepared by Norman D. Streu and Christopher E. Hirst, Barristers & Solicitors with the firm of Alexander Holburn Beaudin & Lang, Vancouver BC. Norman D. Streu is currently serving as Vice Chair and Treasurer on the Board of the Vancouver Regional Construction Association.

The CCA1 significantly modifies the rights and obligations of contractors and trade contractors which formerly existed under the BCCA200 regime.

One of the changes is the new dispute resolution clause in CCA1.

The BCCA200 had only a brief provision dealing with the settlement of disputes. Clause 26 allowed either party to require the dispute to be submitted for determination by a single arbitrator. If both of the parties agreed to arbitration, the arbitrator's decision was final and binding.

The CCA1 contains substantially more comprehensive provisions concerning the resolution of disputes.

Section 8.1.1 of the CCA1 requires the contractor to advise the trade contractor in writing of its decision on questions arising under the contract. Upon receipt of the contractor's decision in writing, the trade contractor has seven days to send a written notice of dispute to the contractor.

The notice must contain particulars of the matter in dispute and refer to the relevant provisions of the subcontract documents. It is important to note that if a trade contractor fails to send this notice of dispute in writing, the trade contractor is deemed to have accepted the decision of the contractor and to have waived and released the contractor from any claims with respect to the contractor's decision.

Once the contractor has received the dispute notice, the contractor must provide a written response within ten days. The contractor's response must set out particulars of the contractor's reply and reference any relevant provisions of the subcontract documents.

CCA1 then provides ten days for the contractor and the trade contractor to resolve the dispute through negotiations. The parties are to provide timely disclosure of relevant facts and issues to facilitate these negotiations.

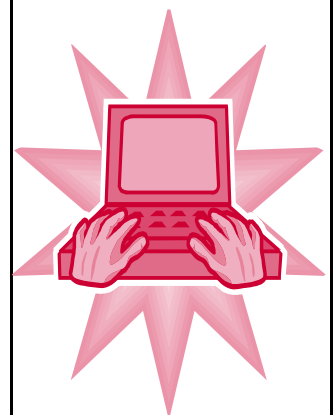
If the parties are unsuccessful in resolving the dispute in this ten day period, the parties must request the appointment of a mediator. This mediator is to be the "Project Mediator" appointed under the prime contract. The project mediator has ten further days to facilitate negotiations and assist the parties in achieving the settlement of the dispute. If resolution of the dispute is not achieved within ten days, the project mediator is directed to terminate the mediated negotiations.

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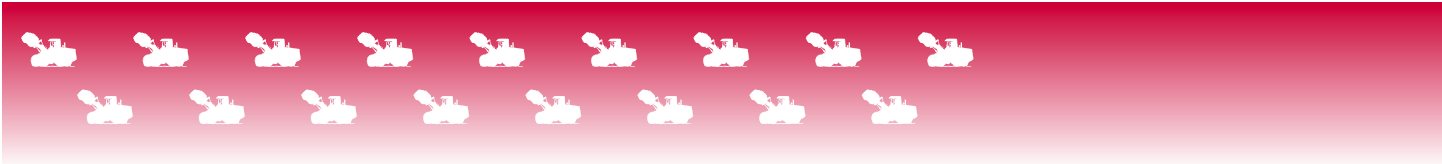
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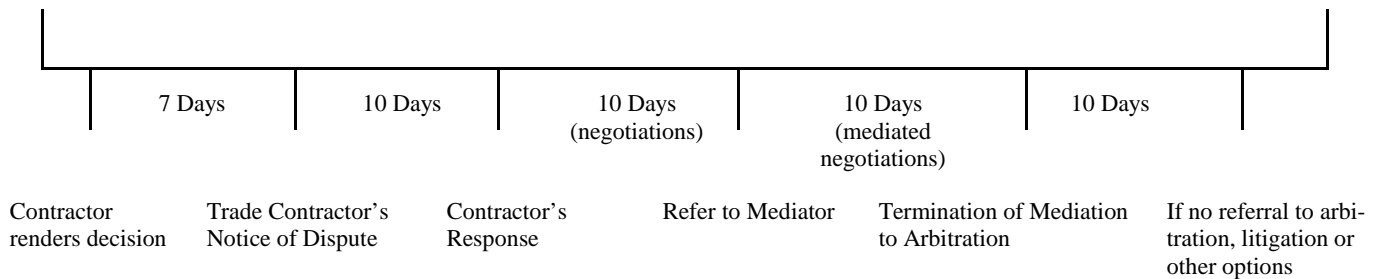


Dispute Resolution Under the CCA1 Contract (cont')

Ten days after termination of the mediated negotiations, either party may refer the dispute to arbitration. If notice is not given within ten days, the requirement to proceed to arbitration is not binding. In most cases, the resolution of the dispute by arbitration is to be held in abeyance until the work has been completed or the subcontract is terminated.

However, if the dispute concerns a payment alleged by the trade contractor to be due, or when either party can show that the matter in dispute requires immediate consideration, the parties can proceed immediately to arbitration. Litigation remains an option if arbitration is not chosen, or is refused after the ten day arbitration period.

For convenience, the time lines provided in this section of the CCA1 are as follows:



Further articles on the differences between the CCA1 Contract and the BCCA200 will be distributed to Members as Issue Updates over the next few months. For more information on the CCA1 please contact your Regional Association.

BCCA Hosts International Conference

As the administrator of the BC Bid Depository, it is important for BCCA to stay abreast of the latest bid depository trends across North America. Attending the annual International Conference of Bid Services has proved beneficial in achieving this goal.

discuss recent Bid Services activity, and address such issues as:

- Electronic Tendering;
- Voluntary Bid Depository; and
- Current Procurement Trends.

This year the BCCA is pleased to be hosting the conference in Victoria, September 11th to the 14th. Delegates from across North America will be meeting to

For anyone interested, information on the conference can be obtained from the BCCA website: www.bccassn.com



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The mission of the BCCA is to provide leadership and excellence in the representation of and service to British Columbia's construction industry