

WAKA KOTAHI NZ TRANSPORT AGENCY COVID-19 ADVANCED ENTITLEMENT PAYMENT – 4 WEEK STAND DOWN

Instructions for Capital Project Contractors

Purpose

This guide sets out the basis for payment for the Waka Kotahi COVID-19 Advanced Entitlement Payment for Capital Projects in construction and currently stood down for 4 weeks as a result of the COVID-19 Level 4 activation.

Overview

On 23 March 2020, the Prime Minister announced the COVID-19 Alert to be raised to Level 4 from 23:59 hours on Wednesday 25 March 2020. This imposes the cessation of any non-essential services for a period for 4 weeks.

In accordance with Government's guidance, Capital Projects are not deemed essential services and are required to shut down for a period of 4 weeks.

In recognition of the potential financial consequences of this shut down, Waka Kotahi is making available an Advanced Entitlement Payment (AEP) for the four-week shut down period.

About the COVID-19 Advanced Entitlement Payment (AEP)

Waka Kotahi values its long-term relationship with Contractors and, pending further announcements from Government, will require works to recommence at the end of the Level 4 stand down period.

The purpose of the AEP is to provide a payment, on account of costs Contractors are contractually entitled to recover, due to the shut down, and enable Contractors to retain their workforce. This is to ensure rapid remobilisation and response to any further economic stimulus proposals.

An hourly labour rate of \$59.89 per hour is being offered to Contractors. This is for the total number of labour hours (direct, labour hire and site-based contractor labour) for the 4 week stand down period. The total number of hours per project is to be calculated based on the actual total labour hours worked for each project for the 4 week period 17 February 2020 through to 15 March 2020 (the Period), with a maximum claimable number of hours per person of 40 hours per week.

The hourly labour rate comprises of an average hourly labour rate of \$49.15 per hour (including all main contractor, labour hire, and site-based subcontractors), and corporate overhead costs of \$10.74 per hour.

On receipt of the COVID-19 AEP Payment (the Payment) by the Contractor, it is the responsibility of the Contractor to then appropriately distribute funds to the project's direct labour, labour hire and site-based subcontractor labour.

Ongoing compliance with the Government's shut down requirements is required as part of the package and payment.

Conditions associated with the COVID-19 Advanced Entitlement Payment

It is intended for the AEP to ensure all direct labour, labour hire contractors and site based subcontractors associated with each individual project remains available to be remobilised at the end of the 4 week stand period.

For a Contractor to access the AEP, they need to undertake to comply with the following:

- Contractors retain all project resources on pay over the stand down period to enable remobilisation
- Contractors commit to treating those in their supply chain with due regard and make efforts to minimise the stand down impact to them and their liquidity
- Contractors include Waka Kotahi in any major decisions with respect to their supply chain which may impact remobilisation
- Where any COVID-19 Government wage subsidies are claimed in addition to the AEP, the amount of Government subsidy claimed is to be deducted from the AEP
- Immediately following expiry of the stand down on notice from Waka Kotahi, Contractors to recommence activities onsite, ensuring recommencement of the works under the Contractor's respective contract/s as expeditiously and safely as practicable

The amount of the AEP paid will be set off against a Contractor's final COVID-19 costs claim (once agreed or determined). Waka Kotahi has full set off rights in respect of the AEP.

It is intended for this Support Package to be offered in good faith and any failure to comply will be seen as a breach of good faith and will be taken into account in the award of future projects.

Process for applying for and receiving the COVID-19 AEP

To access the AEP, each Contractor must sign a COVID-19 AEP Agreement (refer Appendix 2), agreeing to the terms and conditions for the AEP. Once executed, each project will be requested to provide an invoice. This invoice is to be based on the actual hours worked for the period 17 February 2020 through to 15 March 2020 in order to calculate the payment amount. A maximum number of 40 hours per person per project can be claimed.

Waka Kotahi will allow for a maximum hourly rate of \$59.89 per labour hour. This amount comprises of a labour only (direct, hire and subcontractor) rate of \$49.15 per hour and a corporate overhead component of \$10.74 per hour.

Each invoice must reference the project WBS number and include the reference "COVID-19 AEP".

Each project will need to establish a method of funds distribution to ensure the funds received are appropriately distributed across the project's direct labour, labour hire contractors and site-based subcontractors. As a precondition of payment, a schedule will be required to be submitted, showing how the advanced payment will be distributed. A template will be provided for this purpose.

To receive payment, the main Contractor must submit with its invoice:

1. A Signed copy of the COVID-19 AEP Agreement (per project, can be sent in advance to the Project Manager)
2. An Invoice evidencing the allowable number of hours for the applicable period multiplied by the hourly rate set out in the Agreement at \$59.89 per hour
3. A Schedule of payments for how the funds will be distributed using the template provided in excel form.

This should be submitted in the same manner any other claim would be made.

A worked example is provided in Appendix 1.

Exclusions

The AEP applies to all Capital Projects excluding PPPs. The PPPs will be dealt with separately due to their significantly different contractual and financial arrangements.

Professional Services are not covered by the AEP. Where capital projects engage professional services and these activities can continue under Level 4 COVID-19 conditions, these can continue to progress under existing contractual conditions. Where not, we would expect for these roles to be redeployed within home organisations.

Any other impacted parties, for example material suppliers, are not covered by the AEP and should seek other Government means of financial support as required.

Expiry of the COVID-19 AEP offer

AEP claims will be accepted up until 4pm on Friday 24 April 2020.

Further Information

Should you have further information with respect to the AEP, please contact your respective Waka Kotahi Project Manager.

Appendix 1 – Worked Example

Example - Claim for the COVID-19 Cash Flow Support Package

The main Contractor, Roadz Incorporated, is currently delivering a Waka Kotahi project on SH1 in Northland. The project was shut down on Wednesday 26 February 2020 as a result of it being non-essential and in order to comply with Level 4 of the COVID-19 Alert.

The total number of labour (direct, hire and on-site subcontractor) hours recorded for Roadz Inc between the two claimable invoice periods were:

1. 17 February 2020 through to 15 March 2020 – total 6,700 hours
Overtime* hours – 385 hours
Total labour hours claimable – 6,315 hours

**number of hours claimable per person per week not to exceed 40 hours per week*

Under the Waka Kotahi COVID-19 AEP, Roadz Incorporated is able to claim \$59.89 per claimable hour. This comprises of average hourly labour rate of \$49.15 per hour (including all main contractor, labour hire, and site-based subcontractors), and corporate overhead costs of \$10.74 per hour.

To receive the AEP, Roadz Incorporated must include with the claim:

1. Signed copy of the COVID-19 AEP Agreement
2. Invoice evidencing the allowable number of hours for the applicable fortnight and hourly rate set out in the agreement
3. Schedule of payments for how the funds will be distributed (on the template provided) and a specified AEP bank account into which the funds will be paid and held on trust for the intended recipients, pending distribution

Along with the above documentation, Roadz Incorporated will invoice the following:

Invoice:
Labour – 6,315 x \$49.15 = \$310,382.25
Corporate overhead – 6,315 x \$10.75 = \$67,886.25
TOTAL CLAIM: \$378,268.50 plus GST

On receipt of each payment into the designated AEP account, Roadz Incorporated will distribute the funds to the direct, hire and site-based contractor personnel at their appropriate hourly rates for a maximum of 40 hours per week, and retain the balance for corporate overhead costs. Subcontractor labour-related payments must be made within 1 week of receiving the AEP.

The total amount claimed of \$378,268.50 will be off-set against future Roadz Incorporated claims for the COVID-19 stand down.

Appendix 2: *COVID-19 Cash Flow Support Package Agreement*
