

SUPPORTING STATEMENT

WHAT IS A SUPPORTING STATEMENT?

A supporting statement is a written statement that tells the principal or developer if all subcontractors of the **head contractor** have been paid what is owed to them and if there are any outstanding amounts owed to subcontractors.

For each subcontractor who has not been paid, the supporting statement must state:

- the name of the subcontractor who has not been paid
- the amount still unpaid
- details of the unpaid payment claim (e.g. the invoice or payment claim number)
- the date the subcontractor carried out the work or supplied the goods or services – and
- the reasons the full amount owed was not paid
- that all other subcontractors have been paid the full amount owed to them by the head contractor.

When is a supporting statement required?

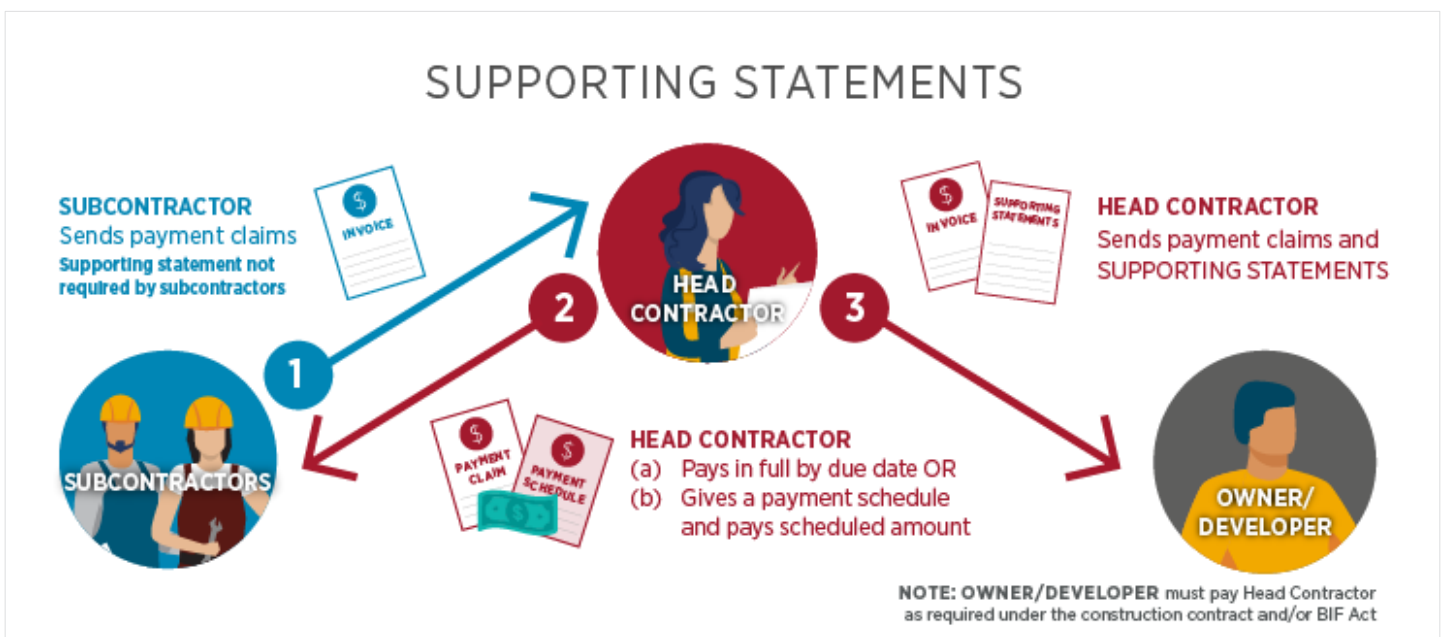
A supporting statement must be given with every payment claim given in relation to a construction contract. A **'construction contract'** is a contract to carry out **construction work** or to supply **related goods and services** to another party.

Only the **head contractor** needs to give a supporting statement AND ONLY if they have engaged subcontractors under the construction contract.

The requirement to give a supporting statement does NOT apply to construction contracts for carrying out **domestic building work** where the client is a **resident owner**.

Subcontractors and persons further down the contracting chain do not need to give a supporting statement.

Failure to provide a supporting statement with a payment claim as required may attract a penalty of up to 100 penalty units for head contractors.



WHAT MUST BE DECLARED ON A SUPPORTING STATEMENT?

If all subcontractors have been paid amounts owed to them by the due date the head contractor's supporting statement simply needs to declare that to be the case.

For example:

In accordance with section 75(7) of the Building Industry Fairness (Security of Payment) Act 2017, I declare that all subcontractors have been paid all amounts owed to them at the date of this payment claim.

You do not need to provide details of the owed amounts you have fully and correctly paid.

If there are one or more subcontractors who have **not been paid** amounts owed to them by the due date (that is, there are unpaid or overdue amounts owed to subcontractors) the supporting statement must provide the details for each subcontractor.

This includes:

- the name of the subcontractor who has not been paid
- the amount still unpaid
- details of the unpaid payment claim (e.g. the invoice or payment claim number)
- the date the subcontractor carried out the work or supplied the goods or services – and
- the reasons the full amount owed was not paid.
- that all other subcontractors have been paid the full amount owed to them by the head contractor.

Supporting statements must be provided by head contractors for each relevant payment claim that they make.

If by the date of the head contractor's next payment claim, the head contractor has still not paid the subcontractor/s all amounts owed to them then this needs to be declared again and all other required details must be provided such as the reason the amount has not been paid in full.

If the head contractor has paid the unpaid amount by the next payment claim, then it will not need to be declared on the supporting statement.

WHAT IS AN AMOUNT 'OWED' TO A SUBCONTRACTOR?

An amount owed is the amount the head contractor is required to pay to the subcontractor by the due date for the progress payment.

The amount required to be paid (i.e. that the head contractor is liable to pay) can be:

- the full claimed amount (when no payment schedule has been given)
- the scheduled amount (when a payment schedule has been given in response to a payment claim).

These amounts are not considered to be owed before the due date for payment.

If the amount required (or liable) is not paid to the subcontractor by the due date, this becomes an unpaid amount.

Note: The supporting statement only relates to payment claim amounts owed by the due date for the progress payment.

Other amounts owing, such as from an adjudication decision, final and binding decision from a dispute resolution process or an amount ordered by a court, are not required to be disclosed on the supporting statement.

However, if an unpaid payment claim amount becomes the subject of an adjudication application or court proceeding it continues to be an amount owed until the adjudicator or other body decides the amount is not owed.

WHAT IS THE DUE DATE FOR PAYMENT?

Under the BIF Act, a progress payment or final payment must be paid by the date stated in the constructions contract (due date), or if the contract does not state a due date within 10 business days after the payment claim is given to the respondent.

For some contracts, the due date stated in a contract cannot be greater than the following maximum timeframes set out under the QBCC Act – otherwise they become void and the default timeframe of 10 business days applies:

- for subcontracts or construction management trade contracts the maximum payment term is 25 business days
- for commercial building contracts the maximum payment term is 15 business days.

Note: Paid when paid payment provisions within a contract are considered void under the BIF Act and have no effect.

IS THERE A SUPPORTING STATEMENT TEMPLATE I CAN USE?

Yes, QBCC have prepared two template options to assist industry.

Template Option 1 is a separate standalone attachment to your payment claim, while Template Option 2 provides suggested text to include on your payment claim.

These are available on the QBCC website: www.qbcc.qld.gov.au/protecting-your-payment-rights/supporting-statement.

These templates are not mandatory and a claimant can choose to make a supporting statement in whatever written form they like as long as it satisfies the above requirements.

While the section does require a declaration to be made, this does not mean that a signature is specifically required. The QBCC template supporting statement follows best practice and includes a signature.

CAN THE SUPPORTING STATEMENT INFORMATION BE INCORPORATED INTO EXISTING PAYMENT CLAIM DOCUMENTATION?

The BIF Act does not require a set format or template for a supporting statement.

A head contractor can choose to incorporate the supporting statement information into their payment claim documentation as long as all of the requirements set out above are clearly stated.

The QBCC has prepared an example template with wording that could be used on regular invoices.

See Template Option 2 on the QBCC website: www.qbcc.qld.gov.au/protecting-your-payment-rights/supporting-statement.

WORKING EXAMPLES

EXAMPLE 1

When money is NOT owed to subcontractors

1 Oct	The head contractor receives a payment claim for \$500 from a subcontractor with a due date of 30 October.
20 Oct	The head contractor gives a payment claim for \$1,000 to the contracting party (owner/developer) with an accompanying supporting statement.

The due date for payment **HAS NOT PASSED** and the head contractor has not yet paid the \$500 to the subcontractor.

As the subcontractor's payment claim is not due, the head contractor does not need to detail that amount in the supporting statement.

Use either [Supporting statement template – option 1 \(PDF 114kb\)](#) or [Supporting statement template – option 2 \(PDF 136kb\)](#).

EXAMPLE 2

When money is owed to subcontractors

1 Oct	The head contractor receives payment claim for \$500 from a subcontractor with a due date of 30 October.
30 Oct	Due date for payment to subcontractor for \$500 payment claim. No payment schedule has been given and the full amount of the payment claim is due and owing.
<p>The due date for payment passes and the head contractor has NOT paid the \$500 to the subcontractor.</p>	
2 Nov	The head contractor gives a payment claim for \$1,000 to the contracting party (owner/developer) with an accompanying supporting statement.
<p>As the subcontractor's payment claim has fallen due and has not been paid by the head contractor, the head contractor must detail the unpaid payment claim amount (as an amount 'owed') in the supporting statement including the reasons why it has not been paid.</p> <p>Use Supporting statement template - option 1 (PDF 114kb).</p> <p>NOTE: The head contractor may have committed an offence under the BIF Act for not paying the full amount of a payment claim by the due date in circumstances where no payment schedule was given.</p>	

EXAMPLE 3

When the supporting statement is submitted with a payment claim on the same date as the subcontractor's due date for payment

1 Oct	The head contractor receives payment claim from a subcontractor with a due date of 30 October.
30 Oct	The head contractor gives a payment claim to the contracting party (owner/developer) with an accompanying supporting statement.
<p>The head contractor has until the end of the day to make the payment and is able to provide a supporting statement prior to the end of the day without including the amount as owing and unpaid.</p>	
<p>Use either the Supporting statement template - option 1 (PDF 114kb) or Supporting statement template - option 2 (PDF 136kb).</p>	

EXAMPLE 4

When the scheduled amount has been paid

1 Oct	The head contractor receives payment claim from a subcontractor with a due date of 30 October.
10 Oct	The head contractor responds to the payment claim with a payment schedule (within 15 business days of receipt of the payment claim) stating payment will be made of part of the amount claimed (a scheduled amount) with the reasons for not agreeing to pay the full amount claimed.
20 Oct	The head contractor gives a payment claim to the contracting party (owner/developer) with an accompanying supporting statement.

The due date for payment **HAS NOT PASSED** and the head contractor has not yet paid the scheduled amount to the subcontractor.

As the scheduled amount is not yet due to the subcontractor, the head contractor does not need to detail that amount in the supporting statement.

Use either the [Supporting statement template – option 1 \(PDF 114kb\)](#) or [Supporting statement template – option 2 \(PDF 136kb\)](#).

EXAMPLE 5

When the scheduled amount is unpaid

1 Oct	The head contractor receives payment claim from a subcontractor with a due date of 30 October.
18 Oct	The head contractor responds to the payment claim with a payment schedule (within 15 business days of receipt of the payment claim) stating payment will be made of part of the amount claimed (a scheduled amount) with the reasons for not agreeing to pay the full amount claimed.

The due date for payment passes and the head contractor has **NOT** paid the subcontractor.

2 Nov	The head contractor gives a payment claim to the contracting party (owner/developer) with an accompanying supporting statement.
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As the due date for the payment claim has passed and the head contractor has not paid the scheduled amount, the head contractor must detail the unpaid scheduled amount (as an amount 'owed') in the supporting statement including the reasons why it has not been paid.

NOTE: The head contractor may have committed an offence under the BIF Act for not paying the scheduled amount by the due date.

Use the [Supporting statement template – option 1 \(PDF 114kb\)](#).

GLOSSARY OF TERMS

The following definitions apply in relation to the application of supporting statements.

Construction contract means a contract, agreement or other arrangement to carry out construction work or to supply related goods and services (see section 64 of the BIF Act)

Construction work includes (see section 65 of the BIF Act for full definition) the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of buildings or structures, whether permanent or not, roadworks, power lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for land drainage or coast protection etc.

Related goods and services, in relation to construction work, includes (see section 66 of the BIF Act for full definition)

- goods arising from or for use in construction work – plant, materials (hired or otherwise) and components to form part of any building or structure
- services arising from or for use in construction work - labour to carry out construction work, architectural, design, surveying or quantity, soil testing

Domestic building work (see section 4, schedule 1B, QBCC Act) includes the erection or construction of a detached dwelling, the renovation, alteration, extension, improvement or repair of a home, and associated work.

However, domestic building work does not include work that is excluded such as design work carried out by architects, engineers or draftspersons, the preparation of plans or specifications, soil reports or obtaining building approvals.

Resident owner, under a domestic building contract, means a building owner who is an individual and intends to reside in the building on completion or within 6 months of the completion of the domestic building work (refer section 1, schedule 1B, QBCC Act).

However resident owner does not include a person who:

- holds, or should hold, an owner-builder permit relating to the work, or
- is a building contractor or subcontractor.

Head Contractor is the party to a construction contract who is required to carry out construction work or supply related goods or services under the contract, and who contracts directly with the principal or owner requesting the work to be carried out.

Subcontract is a contract that contributes to the performance of construction work or supply of related goods and services under another, higher level or head construction contract, and is not merely coincidental.

Here are some examples of arrangements which are and are not a subcontract under a construction contract:

- buying general materials that a head contractor requires for the operation of their business from a materials supplier – is not a subcontract
- buying hammers and work boots under a line of credit with a retail or wholesale supplier – is not a subcontract
- buying bathroom modules in bulk and not purchasing them to contribute to the performance of a particular contract – is not a subcontract
- buying a special tool required to install bathroom modules required for a particular construction contract – is a subcontract.