

Our ref: BCA ID 86.10.18

Procurement Policies Department  
Business Development Group

3 March 2022

Dear Sir/Madam,

## CIRCULAR ON EX-GRATIA EXTENSION OF TIME (EOT) DUE TO COVID-19 EVENTS FOR JULY 2021 – FEBRUARY 2022 IN PUBLIC SECTOR CONSTRUCTION CONTRACTS

This circular informs the Built Environment sector on the grant of ex-gratia extension of time (“EOT”) for delay in public sector construction contracts due to COVID-19 for period from 1 July 2021 to 28 February 2022.

### Background

2 The following circulars were earlier issued to help ease claims for EOT under eligible construction contracts:

Date of Circular	Key Information in Circular
30 Nov 2020	For period between 7 April 2020 and 6 August 2020: Part 8A of the COVID-19 (Temporary Measures) Act 2020 (“COTMA”) provides a universal EOT of 122 days.
27 Apr 2021	For period between 7 August 2020 to 31 December 2020: 49-day ex-gratia EOT to be granted to eligible contracts for delay due to loss of productivity arising from COVID-19 related events.
10 Nov 2021	For period between 1 January 2021 and 30 June 2021: 34-days ex-gratia EOT to be granted to eligible contracts for delay due to loss of productivity arising from COVID-19 related events.

### Ex-gratia EOT for delay due to loss of productivity from July 2021 to February 2022

3 While the COVID-19 pandemic situation continues to impact site productivity to some extent in second half of 2021, construction output at industry level has recovered close to pre-COVID levels. This indicates that construction activities are progressing at a steady pace. The computed ex-gratia EOT for eligible public sector construction contracts has taken this development into consideration.

4 For eligible public sector construction contracts, **government agencies will grant ex-gratia EOT of 33-days (or part thereof) due to loss of productivity for the period from 1 July 2021 to 28 February 2022**, see Table 1 for details. The eligibility criteria remain the same as the previous BCA circular dated 27 April 2021 i.e. for public sector construction contracts<sup>1</sup>:

- (i) in which the tender was closed on or before 1 June 2020<sup>2</sup>
- (ii) that were not terminated by the Employer on or before 7 August 2020 under Clause 31 of PSSCOC (or equivalent clause under the contract); and
- (iii) that was not certified to be substantially completed on or before 7 August 2020 under Clause 17 of PSSCOC (or equivalent clause under the contract).

Table 1: Ex-gratia EOT to be granted to eligible construction contracts

Period	EOT to be granted <sup>[a]</sup>
1 Jul 2021 to 30 Sep 2021	<b>5 days per month</b> (Total of 15 days for 3Q2021)
1 Oct 2021 to 31 Dec 2021	<b>4 days per month</b> (Total of 12 days for 4Q2021)
1 Jan 2022 to 28 Feb 2022 <sup>[b]</sup>	<b>3 days per month</b> (Total of 6 days for Jan-Feb 2022)
<b>Note:</b> In total, <b>33-days</b> of ex-gratia EOT for period from 1 Jul 2021 to 28 Feb 2022.	

[a] Similar to the previous ex-gratia EOT as announced in BCA circular dated 27 April 2021 and 10 November 2021, the ex-gratia EOT for July 2021 onwards was computed based on the estimated loss of productivity in terms of industry monthly progress payment (i.e. industry output) as compared to pre-COVID level, with adjustment for inflation.

[b] For this period, ex-gratia EOT was derived from estimated output.

5 The following procedure will continue to apply:

- a) **No claim for the ex-gratia EOT is required from contractors.** The ex-gratia EOT will apply unless the government agency assesses there are strong grounds<sup>3</sup> which deter the grant of the ex-gratia EOT.
- b) **Contractors which wish to seek longer EOT for the same period shall provide the necessary substantiation for government agencies' assessment.** Government agencies can grant such longer EOT if they assess such requests to be appropriate. For more information, please visit the FAQs weblink at <https://go.gov.sg/bca-faqs-simplified-claim-process>.

<sup>1</sup> Refers to construction contracts involving works such as building, civil engineering works and addition & alteration (A&A) works. Supply and maintenance term contracts are not eligible for this EOT.

<sup>2</sup> Notwithstanding, government agencies have the flexibility to grant ex-gratia EOT for contracts with tender closed **after** 1 June 2020 if there are valid justifications to do so (e.g. contract duration was still based on pre-COVID estimate).

<sup>3</sup> **Example:** Design stage in D&B contract where the progress of design works, which are not carried out on worksite, are not affected by the COVID-19 situation. In such cases, government agencies have the flexibility to reduce (or not to grant) ex-gratia EOT accordingly.

6 Barring any unforeseen circumstances, this will be the final broad-based grant of ex-gratia EOT for public sector construction contracts arising from COVID-related delay. ***For the period after 28 February 2022 up till 31 December 2022; for eligible construction contracts<sup>4</sup>, contractors can still request for EOT arising from COVID-related delay with detailed substantiation to their respective government agency clients.*** For contracts using the Public Sector Standard Conditions of Contract (PSSCOC) (8th Edition), contractors can rely on contractual provisions under the PSSCOC (8th Edition) to claim for EOT for such COVID-related delay.

7 ***Private sector construction contracts:*** Contracting parties can take reference from this circular and negotiate on the appropriate period of EOT to be provided.

8 ***Simplified claim process for COTMA Part 8B prolongation cost.*** For eligible construction contracts, government agencies will continue to compute the prolongation cost pay-out based on the EOT provided for COVID-related delay from 1 July 2021 to 28 February 2022, via the simplified claim formula<sup>5</sup>. As the relief period under COTMA Part 8B ended on 28 February 2022, the simplified claim formula will cease to apply for any prolongation cost claims arising from COVID-related delay after 28 February 2022.

## Clarifications

9 For clarification on this circular, please direct your queries to <https://www.bca.gov.sg/feedbackform/>. Please visit BCA's COVID-19 webpage ([www1.bca.gov.sg/COVID-19](http://www1.bca.gov.sg/COVID-19)) and subscribe to BCA's Telegram channel (<https://t.me/BCASingapore>) for latest updates.

Thank you.

Ng Man Hon  
Director, Procurement Policies Department  
Building and Construction Authority

(Transmitted via email)

---

<sup>4</sup> Refer to the eligibility criteria mentioned in paragraph 4 of this circular.

<sup>5</sup> Refer to paragraph 4 of BCA Circular dated 7 July 2021 on Further Simplified Claim Process for Prolongation Costs in Public Sector Construction Contracts due to COVID-19 Events. Please note that the claim will be subject to the cap of 0.2% of contract sum per month and an overall cap of 1.8% of contract sum as prescribed under COTMA Part 8B.