



[FOR IMMEDIATE RELEASE]

## PROMPT PAYMENT ACT SET FOR FINAL REVIEW IN SENATE COMMITTEE

**March 8<sup>th</sup> 2017 (Ottawa)** *The Canada Prompt Payment Act*, Bill S-224 has been the subject of rigorous review at the Senate Standing Committee on Banking Trade and Commerce since February 2<sup>nd</sup> and is ready to undergo clause-by-clause review before a vote to send the bill to the House of Commons. Supporters of the bill have sent thousands of letters to Senators and Members of Parliament to demonstrate the widespread need to address payment delays in Canada's construction sector with enforceable legislation. The National Trade Contractors Coalition of Canada (NTCCC) has appeared before the committee to speak in favour of the bill alongside witnesses representing tradespeople and suppliers.

Over the course of this study, criticisms have arisen from general contractors about the implementation of federal legislation on top of legislation currently being developed in Ontario as a result of the Construction and Lien Act Review, which was undertaken by Bruce Reynolds and Sharon Vogel. Many NTCCC members are also members of Prompt Payment Ontario (PPO) and have expressed their support for the Reynolds/Vogel Report. Bill S224 was drafted prior to the release of the report and it is appropriate to review the bill in light of the extensive work and consultation that has gone into the recommendations stemming from that review.

"Our members have reviewed the concerns of the general contracting community brought forward to the Senate Committee and made many suggested amendments in line with what they are calling for," said John Galt, Chair of NTCCC. "We agree with them that The Reynolds and Vogel Report has earned multilateral support and should be the template for prompt payment legislation." At a committee hearing on February 9<sup>th</sup> Aecon's Senior Vice President and Deputy General Counsel, Yonni Fushman said "If you give us Reynolds [referring to the report of Reynolds and Vogel], the general contracting community will be supportive". NTCCC has worked with Senators to encourage those changes and looks forward to the general contractors supporting the amended bill.

The Parliamentary Secretary to the Minister of Public Services and Procurement Canada appeared before the committee on February 8<sup>th</sup> to express the government's concern for the "need to be mindful of forcing the Crown into a relationship with subcontractors and into new responsibilities where none was designed to exist". Louis Davis the Senior Counsel, Constitutional, Administrative and International Law Section for Justice Canada stated that in this matter "The Government of Canada has no relationship with the subcontractors."

"This legislation is too important to be voted down because of crossed wires," said John Blair, Executive Director of the Canadian Masonry Contractors Association "The bill does nothing to force the crown into any different relationship with subcontractors than what already exists. We will work with government to rectify any confusion about the intent of this bill and the applicability of contract law."



Mr. Davis also stated at committee that “it is questionable whether Bill S-224 is constitutional since regulation of construction contracts is generally a matter of provincial jurisdiction.” His point was addressed by Gerald D. Chipeur, a partner with Miller Thompson who provided a legal opinion that “Parliament has jurisdiction to enact Bill S 224 under section 91(1)(a) of the Constitution Act.” Chipeur told the committee “The only way that this bill is, in my view, bullet proof is because it is limited to federally owned property.”

Other comparator nations that have prompt payment legislation at the federal level include the United States of America, The United Kingdom, Ireland, Australia and New Zealand. Nobody appearing before the committee has made an argument about Canada’s uniqueness, or given a reason why our construction sector should operate differently than those in other Western, industrialized countries.

“We want the Government of Canada to take a leadership role and pass prompt payment legislation, in respect to work on federal projects,” said Galt. “The government can show Canadians that it values paying people who do good work in a prescribed amount of time. It would result in a more proportionate and equitable distribution of risk and would benefit taxpayers at no cost to the government.”

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*The National Trade Contractors Coalition of Canada (NTCCC) was established in 2004 to provide an organized forum for Canada's national trade organizations to share information, resources, and to collaborate on issues that are of common interest to all. The membership is currently comprised of: Canadian Roofing Contractors Association, Canadian Automatic Sprinkler Association, Canadian Masonry Contractors Association, Canadian Electrical Contractors Association, Mechanical Contractors Association of Canada, Interior Systems Contractors Association, Thermal Insulation Association of Canada, Heating Refrigeration and Air-Conditioning Institute of Canada-Contractors Division, Sheet-Metal Contractors Association, and the Canadian Institute of Steel Construction*

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