

\*This document contains changes to previous document posted on ALMD site. Additions are in blue italics, deletions have been removed from the document.\*

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## Definition of Substantial Completion

The Knowledge Infrastructure Program ("KIP") does not define substantial completion. However it does state that any item not defined by the Canada – British Columbia contract is governed by the laws of British Columbia. With this understanding, the definition of substantial completion will come from the BC Builders Lien Act:

*"(2) For the purposes of this Act, a head contract, contract or subcontract is substantially performed if the work to be done under that contract is capable of completion or correction at a cost of not more than*

- (a) 3% of the first \$500 000 of the contract price,*
- (b) 2% of the next \$500 000 of the contract price, and*
- (c) 1% of the balance of the contract price.*

*(3) For the purposes of this Act, an improvement is completed if the improvement or a substantial part of it is ready for use or is being used for the purpose intended."*<sup>1</sup>

Under the KIP agreement *the following are not required for Substantial Completion:*

- *Receipt of final invoices,*
- *Receipt of release requests for workmanship deficiencies,*
- Payment of final invoices,
- Release of construction holdback *funds,*
- Release of workmanship deficiency *funds,*
- Deliverables exclusively required by internal or Provincial stakeholders (i.e. LEED certification),
- Completion of work already deemed as an ineligible expense (i.e. corporate sponsor supply and install of equipment provided "in-kind").

The Federal Government has the sole right and discretion to demand all of its contributions, spent or otherwise, to be returned should a project not be substantially complete on March 31, 2011.

## Eligible and Ineligible Work after March 31, 2011

The Federal government will not contribute to any costs incurred after March 31, 2011. This is both a contractual statement in the KIP agreement and has been publicly stated by Prime Minister Steven Harper, on multiple occasions, in regard to stimulus spending (which KIP is part of).

*Incurred costs are the costs of work completed.*

*For contract work incomplete on March 31, 2011, only the completed portion of the contract is considered to be an incurred cost; the balance of the contract may be a committed cost, but is not considered to be incurred.*

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<sup>1</sup> BC Builders Lien Act (1997) - definitions

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*Payment of holdbacks for workmanship deficiencies is permitted after March 31, 2011, and is considered an eligible cost. A workmanship deficiency is defined by work that:*

- 1. Has been claimed as 100% complete by the contractor;*
- 2. Is non-functional or does not meet contract specifications (i.e. HVAC works, but modifications are required to meet performance specifications, or as simple as some electrical outlets not working); and*
- 3. Has a known, fixed and agreed price that is documented.*

*Goods and equipment that are owned by the institution are considered Substantially Complete if they are in legal possession of the institution. Installation costs of goods and equipment after March 31, 2011 are ineligible costs and will not be eligible for Federal funding.*

*Examples of work that would be considered as ineligible costs after March 31, 2011 may include:*

- 1. Services such as moving services to occupy or decant a space;*
- 2. Ordered goods and equipment that the institution has no legal claim to (i.e. no initial payment);*
- 3. Any outstanding contract work;*
- 4. Seasonal deficiencies;*
- 5. Any and all work to move project from Substantially Complete to 100% complete, except workmanship deficiencies;*
- 6. Consultant and other soft costs.*

## Document Requirements for Final Payment

To be considered Substantially Complete by March 31, 2011, the institutions are required to provide the following three sets of documents:

- 1. Solemn Declaration of Substantial Completion within seven business days of actual date (Schedule D).*
- 2. Close-out Report package within calendar 60 days of March 31, 2011 or actual date of Substantial Completion. (<http://www.aved.gov.bc.ca/cppm/kip.htm>)*
- 3. Audit within 60 calendar days of March 31, 2011 or actual date of Substantial Completion.*

## Solemn Declaration of Substantial Completion

Solemn Declaration of Substantial Completion *and/or* Schedule D (*available at <http://www.aved.gov.bc.ca/cppm/kip.htm>*) is required within seven business days of Substantial Completion. This document is to be certified by an engineer or architect and include the following:

- 1. Name, position, and organization of declaring person including signature*
- 2. Project name*
- 3. Date of Substantial Completion*
- 4. Name of prime contractor*
- 5. Start date and end date of construction*
- 6. Date and location of signature.*
- 7. Witness signature*

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## BC Project Close-out Report

The current version of the *BC Project Close-out Report* is found at <http://www.aved.gov.bc.ca/cppm/kip.htm> and includes the following sections:

1. Tombstone Summary Information
2. Progress On Project
3. Communications
4. Program Area
5. Total Funding
6. Expenditures breakdown
7. *Benefits: New Construction / Renovation & Repair*
8. Economic Stimulus
9. Health, Safety and Environmental Improvements
10. *Energy Efficiency and Green House Gas Emissions*

Other Material required for supporting the Close-out report, as applicable, include:

1. Space summary report (approved and current)
2. Wood First Report (report on areas and use of wood in the building)
3. LEED Certification Application / Report

## Audit

The Audit is to be a Financial and Compliance audit. Details of what this is to contain or who can complete it are not provided by the Government of Canada but are detailed by the Provincial Government in the Project Reporting and Approval Requirements at <http://www.aved.gov.bc.ca/cppm/kip.htm>. Requirements include:

1. Audit is performed by a licensed auditor, *identified, retained and paid by the institution*;
2. Claims by institution against payments to construction contractors;
3. That eligible activities were undertaken with the funds (requiring either a site visit by the auditor or some paper proof such as a signed / certified statement of work undertaken);
4. *That ineligible costs have not been included in project costs*;
5. That, where applicable, appropriate disposal of assets was undertaken;
6. That, where applicable, aboriginal consultations were undertaken.

Other facets regarding the audit include:

1. Audit can be made public.
2. Auditor General has right to review original data for up to six years.
3. Government of Canada has the right to complete its own independent audit at its own expense.