

Responding to an Adjudication Application

This fact sheet explains how to respond to an adjudication application under the *Building and Construction Industry Security of Payment Act 2002*.

WHAT IS AN ADJUDICATION APPLICATION?

A claimant who has served a payment claim on a client or purchaser (known as the 'respondent') under the *Building and Construction Industry Security of Payment Act 2002* (the SOP Act) may apply for adjudication if the respondent responds in any of the following ways:

- Provides a payment schedule which shows that the amount that the respondent proposes to pay (the 'scheduled amount') is less than the amount claimed in the payment claim (the 'claimed amount')
- Provides a payment schedule but does not pay the scheduled amount when it is due
- Fails to provide a payment schedule or pay the claimed amount when it is due.

The claimant applies to an Authorised Nominating Authority (ANA), which nominates an adjudicator. A copy of the adjudication application must be served on the respondent.

WHAT IS AN ADJUDICATION RESPONSE?

An adjudication response is the respondent's reply to an adjudication application.

A respondent may lodge an adjudication response only if they provided a payment schedule in accordance with the SOP Act.

A sample form adjudication response is available on the [VBA website](#).

REQUIRED INFORMATION

To be valid, an adjudication response must:

- Identify the adjudication application to which it relates
- Include the name and address of any relevant principal of the respondent
- Include the name and address of any other person who the respondent knows has a financial or contractual interest in the matters that are the subject of the adjudication application, and
- Identify any amount of the payment claim that the respondent alleges is an excluded amount.

Relevant principal

A relevant principal is any person who has engaged the respondent under a contract to provide construction work, goods or services, if the work that the claimant has done or the goods or services that the claimant has supplied under contract to the respondent is, or is part of or incidental to, the construction work, goods or services that the respondent was engaged to carry out or supply.

The adjudicator must notify any relevant principal of the adjudication application.

Note: This does not include the principal in a domestic building contract to which the SOP Act doesn't apply. For more information about this exemption see [Fact Sheet No 1: The Security of Payment Scheme](#).

Excluded amounts

An adjudication response must identify any amount of the payment claim that the respondent alleges is an excluded amount.

The SOP Act also requires the respondent to identify any alleged excluded amount in the payment schedule.

Additional information

The adjudication response may contain any submissions relevant to the response that the respondent chooses to include. Copies of documents relevant to the submissions should be attached.

The respondent should make the adjudicator aware of any reasons for withholding payment which were not provided in the payment schedule. The adjudicator is required to inform the claimant of these reasons, following which the claimant has two business days to lodge a response to those reasons with the adjudicator.

LODGEMENT DEADLINE

The adjudication response must be lodged with the adjudicator within five business days after receiving a copy of the adjudication application from the claimant, or two business days after receiving notice of an adjudicator's acceptance of the application – whichever is later.

A copy of the response, including any attachments, must also be served on the claimant. This can be done in any of the following ways:

- Delivered in person.
- Lodged during business hours at the respondent's ordinary place of business.
- Sent by post to the respondent's ordinary place of business.
- Faxed to the respondent's ordinary place of business.
- Provided in any other manner specified in the contract.

Want to know more?

Please [submit an enquiry](#) or call us on 1300 815 127.

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