

## COVID-19 Ex-Gratia Payment

### Frequently Asked Questions

- Q1: If the site in question opened during the Applicable Period, is the Contractor entitled to the ex-gratia payment for the whole of the Applicable Period?
- Ans.1: The ex-gratia payment is only available for the period the site was closed during Applicable Periods 1 & 2. The formula can be adjusted by amending the value of (d), 'the actual period of site closure', as per the formula in Section 4 of the [Guidance Note on Procurement and Contractual Matters Associated with the Covid-19 Response Measures](#), to reflect the relevant duration.
- Q2: There are two Applicable Periods. Do I have to complete the two Ex-Gratia Agreement forms or can I combine the two?
- Ans.2: You must complete the two agreement forms separately to reflect the individual Applicable Periods.
- Q3: Can I merge the payments from Applicable Periods 1 and 2 onto one payment certificate?
- Ans.3: Yes, you can merge the payments on the basis that the Ex-Gratia Agreement forms have been completed by both parties and a breakdown of the calculations have been agreed.
- Q4: Do I include the ex-gratia payment on my next Contract payment certificate?
- Ans.4: No. The ex-gratia payment lies outside of the Contract and as such should have its own certificate separate to the Contract as noted in Section 3.2.2 (7) of the [Guidance Note on Procurement and Contractual Matters Associated with the Covid-19 Response Measures](#). Contracting Authorities will need to relate the payment to internal financial reporting systems.
- Q5: Some of my preliminaries are paid on a milestone basis. How do I account for this in the ex-gratia calculation?
- Ans.5: Where a milestone payment is required to be paid at specific points of the Contract for specific services, they should be included as initial costs (I) in the formula in Section 4 of the [Guidance Note on Procurement and Contractual Matters Associated with the Covid-19 Response Measures](#). This will result in the payment becoming due with the scheduled interim account when the project recommences. The same applies if the milestone payment becomes due during the period of site closure by agreement of the parties to the Contract.
- Q6: Are preliminaries relating to Specialist Contractors to be assessed under the calculation of the ex-gratia payment?

Ans.6: No. Only the preliminaries tendered by the main Contractor in the relevant section of the Bill of Quantities, or provided in breakdowns of preliminary sums within a pricing schedule, are to be used to calculate the ex-gratia payment.

Q7: I am still awaiting the Contractor's submission of their ex-gratia calculation.

Ans.7: The client is to nominate a person to calculate the value of the ex-gratia payment and consult with the Contractor.

Q8: Some of the Contractor's staff were in receipt of the COVID-19 Temporary Wage Subsidy Scheme/COVID-19 Pandemic Unemployment Payment. How do I account for this?

Ans.8: Where the Contractor has declared that some members of staff have already received State subsidy or relief, the full value of their wages should be included in the calculation of (Su) as per the formula in Section 4 of the [Guidance Note on Procurement and Contractual Matters Associated with the Covid-19 Response Measures](#), rather than just 50%. The effect is that the ex-gratia payment does not provide a secondary source of relief.

Q9: The Contractor has provided vouched expenses for preliminary items which show costs greater than those included within the priced preliminary section of the Contract. Which value do I include?

Ans.9: The ex-gratia agreement does not provide a mechanism to accept preliminary costs greater than those priced within the Bill of Quantities or the pricing document. In effect this imposes the rates within the preliminaries section as a cost ceiling for the calculation.

Q10: Is the ex-gratia payment subject to VAT?

Ans.10: In relation to VAT, the ex-gratia payment is to be treated in the same manner as payments made under the main contract.