

BIF Act Trust Record self-assessment scenario



Queensland
Government

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Introduction

The *Building Industry Fairness (Security of Payment) Act 2017* (the BIF Act) and Building Industry Fairness (Security of Payment) Regulation 2018 (BIF Regulation) prescribe a trust account framework for eligible building and construction contracts.

The trust account framework aims to help subcontractors get paid for their work by placing payments for an eligible building contract into trust accounts.

A **project trust account** is a bank account through which project payments are received and paid. An account must be opened for each eligible building project.

A **retention trust account** is a bank account where cash retentions are held until they are due to be paid. Only one account for the business is needed – not one for each contract.

Under the BIF Act, trustees of those accounts must keep certain trust records. These requirements are important to the integrity of the trust and the trust protections, and ensure effective oversight, financial transparency and information sharing.

The four critical elements of compliant trust records include:

1. keeping a separate trust ledger for each trust
2. ensuring all transactions affecting the trust are recorded in the ledger accounts
3. reconciling the ledger account to ensure the accuracy of the records
4. ensuring access to the above trust records and related source documents for 7 years.

A trustee may use a computerised system to assist in keeping records. If software is used, the trustee must ensure the records created and maintained by the software product comply with the legislative requirements.

Instructions

Review the scenario and records and use them to create the trust records prescribed in the BIF Act. Please read through the entire scenario before entering the dataset into your solution.

Scenario

ABC Constructions Pty Ltd has been engaged by **AJS Development** to build a block of ten commercial properties. It will take 10 months to complete the project at a contract price of \$9.6 million.

ABC Constructions is not responsible for the fit out. The internal base build requirements are;

- Switchboards
- Providing a water supply and drainage point
- Sheeting and painting the base building walls and ceiling
- Emergency lighting

Scenario and dataset caveat

The purpose of the project dataset is so software providers can use the dates, stakeholders and values for their product to produce trust records for assessment.

The scenario and dataset is an example of a typical project. No inference into actual costs and subcontractors or suppliers should be inferred. All project details are fictional and any resemblance to existing suppliers, subcontractors, or developers is coincidental.

All project payment claims have been included in the dataset for reference including supplier costs.

The payment date is taken to be the due date for payment unless otherwise specified. No contract details have been provided and there is no standard reference date for payment.

The dataset also includes supplier invoice data. This was to assist solutions with end-to-end testing for entering all data points to produce general accounting records. It should not be recorded in the trust ledger accounts.

Remaining cash balances

Project trust account

There will be a closing balance of \$181,878.40 left in the project trust account at the conclusion of the project. Please leave this amount in the trust ledger account.

Each subcontractor beneficiary ledger should have a zero balance and the trustee ledger account will have a remaining balance of \$181,878.40.

Retention trust account

There will be closing balance of \$218,250.00 left in the retention trust ledger account.

As the scenario will not release any retention amounts, the beneficiary ledger accounts will have following closing balances;

| | Subcontractor beneficiary | Closing balance |
|----|---------------------------|-----------------|
| 1 | Classy Glass | \$2,700.00 |
| 2 | Swinging Hammers | \$14,500.00 |
| 3 | World Beating Sheeting | \$9,350.00 |
| 4 | Leigh king Plumbing | \$30,000.00 |
| 5 | Bright Spark Electricians | \$60,000.00 |
| 6 | Get It Started | \$12,500.00 |
| 7 | Pick and Stick tiling | \$4,300.00 |
| 8 | Strokes Painting | \$7,200.00 |
| 9 | Hard and Fast Concreting | \$20,500.00 |
| 10 | Rock, Roots, and Shoots | \$1,200.00 |
| 11 | Stack 'em | \$750.00 |
| 12 | Can't Hurt Steel | \$40,750.00 |
| 13 | You're Covered Roofing | \$14,500.00 |

Project details

| Project criteria | Project details |
|-------------------------------|-------------------|
| Contract price | \$9.6M (inc. GST) |
| Start date | 6 March 2023 |
| End date | 15 October 2023 |
| Principal (Contracting party) | AJS Development |
| Practical completion | 15 October 2023 |
| Defects liability | 15 October 2024 |

Trustee details

| Trust criteria | Trust account details |
|---------------------------------|--|
| Trustee name | ABC Constructions Pty Ltd |
| Trustee Director | James O'Connor |
| Trustee email | joc@abcc.com.au |
| Project name | Twin Pines Shops |
| Project Location | 123 Trail Road, Lutwyche Qld 4030 |
| Financial Institution Name | MR Bank |
| Project Trust account name | Twin Pines ABC Constructions Project Trust |
| Project trust account number | 111222 |
| BSB | 999999 |
| Retention Trust account name | Twin Pines ABC Constructions Retention Trust |
| Retention trust account number | 333444 |
| BSB | 999999 |
| General business account number | 555666 |
| General business BSB | 999999 |

Trust records to produce

1. The Project trust ledger (with ledger accounts)
 - a. 1 bank ledger account, 1 trustee ledger account, and 14 beneficiary ledger accounts.
2. The Retention trust ledger (with ledger accounts)
 - a. 1 bank ledger account and 13 beneficiary ledger accounts.
3. An end of month reconciliation statement (with trial balance)
 - a. Project trust reconciliation statements for March-November (9 total)
 - b. Retention trust reconciliation statements for April-November (8 total)

Scenarios to test

Part of managing trust records is demonstrating how trust records are managed during typical scenarios that can occur with a trust project.

| Scenario | Background | Activities to occur as per the data set |
|--|---|---|
| <p>1. <u>Initial deposit.</u></p> <p>This scenario relates to when a trustee receives the initial deposit from the principal before trust work commences.</p> | <p>The initial deposit is used by builders in preparation for claims for payments that are made and due to be made. It can be used to pay for suppliers and initial overheads that occurs at beginning of a project.</p> <p>It can also reduce pressure on a builder to top-up the trust account when beneficiary payments are due to be paid and the progress claims have not yet been paid.</p> | <p>Journal an initial deposit from the principal.</p> <ul style="list-style-type: none"> • Locate Builder's claim Initial deposit on 20/02/2023 • The deposit was paid by the principal on 20/03/2023 • Record the builders claim |
| <p>2. <u>Early withdrawal</u></p> <p>This scenario relates to a withdrawal of money from the project trust account as there are no registered beneficiaries.</p> | <p>A trustee may make an early withdrawal to pay suppliers for the trust project however it can only be paid from the head contractor's general business account and not the project trust account.</p> <p>The BIF Act does not restrict head contractors from withdrawing trust account money when there are no recognised beneficiaries (s20A (b)).</p> | <ul style="list-style-type: none"> • Trustee to withdraw the "initial deposit" amount in scenario 1 on 21/03/2023 • Please read the cell note on A75 in the dataset document. |
| <p>3. <u>Topping up</u></p> <p>This scenario relates to topping up a trust account when there's not enough money to cover a beneficiary payment.</p> | <p>There may be situations where progress claims have not been received <u>or there are insufficient amounts</u> in the trust account and the date of beneficial payment are due requiring the trustee to top-up the trust account to facilitate their payment.</p> <p>The BIF Act states a trustee must top-up the trust account when the beneficiary payments are due to be paid if there are insufficient funds (s51).</p> | <p>Two activities to occur</p> <ol style="list-style-type: none"> 1. March subcontractor payment claims are due to be paid from 24/04/2023. • Trustee top-up project trust account with the total claimed amount of beneficial interest of \$880,000 on 23/04/2023 2. Subcontractor payment claims are due to be paid from 23/06/2023 |

| Scenario | Background | Activities to occur as per the data set |
|---|---|---|
| | | <ul style="list-style-type: none"> Trustee top-up project trust account with the total claimed amount of beneficial interest of \$1,133,920.80 on 22/06/2023 |
| <p>4. <u>Errors</u></p> <p>This scenario requires you to demonstrate how you manage a typical error in the trust records</p> | <p>Overpaying a claim for payment.</p> <p>There may be situations where a user overrides a payment amount that doesn't match what was posted to the ledger from the payment claim.</p> <p>This will impact the trust ledger account, trustee ledger account, and beneficiary ledger accounts.</p> <p>The claim for INV 107 on 23 June is overpaid (instead of \$7600) \$8000 is paid.</p> <p>The overpayment will be deducted from the next payment claim rather than recouping the overpaid amount.</p> | <p>Two activities to occur</p> <ol style="list-style-type: none"> 1. Locate item number 107 on 27/06/2023 <ul style="list-style-type: none"> Record the payment claim but include the retention amount in the payment. Withhold the correct retention amount. <ol style="list-style-type: none"> 2. Locate item number 108 on 23/07/2023 <ul style="list-style-type: none"> Pay the payment claim but reduce the amount to account for the overpayment amount from INV 107. Withhold the correct retention amount. |
| <p>5. <u>Adjudication</u></p> <p>This scenario requires to you demonstrate how the trust records manage an adjudication decision.</p> | <p>There may be situations when a trustee is disputing a payment claim and the full claimed amount is not paid. A dispute may be raised which goes through adjudication.</p> <p>The claim for INV 349 on 25 August for \$72,000 is disputed by the trustee. A payment schedule is issued for \$36,000 and this is what is paid to <i>Strokes Painting</i> on 29 September.</p> <p><i>Strokes Painting</i> seeks an adjudication decision of the disputed amount and is successful meaning the trustee must pay them the outstanding</p> | <ul style="list-style-type: none"> Locate item number 349A on 20/08/2023 Record the adjudication claim in the trust ledger accounts using the Invoice number 349A Record the retention amount in the retention trust ledger accounts |

| Scenario | Background | Activities to occur as per the data set |
|---|---|---|
| | <p>\$36,000 on 20 October (before the due date of 27 October).</p> <p>In this scenario, the outcome is that the full payment for the original claim must be made.</p> <p>The BIF Act states a trustee must pay a subcontractor an adjudicated amount for disputed progress payment relating to the contract (s19 (1) (c))</p> | |
| <p>6. <u>Revision</u></p> <p>This scenario requires you to demonstrate how a revision to an entry in a trust ledger is managed.</p> | <p>Trustee J O'Connor enters a payment claim from subcontractor <i>Can't Hurt Steel</i> as \$81,500 instead of \$815,000. This is then posted to the beneficiary ledger account.</p> <p>Recognising the error, a revision is made to adjust the payment to the correct amount of \$815,000</p> | <ul style="list-style-type: none"> • Locate item number 5853 on 23/04/2023 • Record the payment claim as per the dataset except enter the claimed amount as \$81,500. • Post the claim for payment to the beneficiary ledger account. • Revise the amount claimed to increase the beneficial interest be the correct amount of \$815,000 on 24/06/2023 <p><u>Options</u></p> <ul style="list-style-type: none"> • You can reverse the incorrect entry and then re-enter the correct amount as a new entry (this will be 2 extra lines) • Or you could increase beneficial interest by adding a single new entry |

Scenarios not being tested

1. Partial release of retentions before Defects Liability Period (DLP) or Practical Completion (PC) upon agreement (or contract)
 - a. This is a standard transaction for a building project
2. Total early release of retentions upon agreement (or contract)
 - a. This is a standard transaction for a building project
3. Release of retentions at DLP
 - a. This is a standard transaction for a building project
4. Release of retentions at PC
 - a. This is a standard transaction for a building project
5. Pro-rata payments to subcontractors where there is not enough money to cover the payments and a top-up cannot occur
 - a. While this is a scenario that is covered by the BIF act, this does not impact trust records UNLESS software only allows the payment amount to match the payment claim (and payment schedule).
 - b. If software does preclude users from underpaying claimed amounts, this falls outside the requirements of the BIF Act.
6. Confirming interest can only be withdrawn once per year or at the closure of the trust account.
 - a. This is not a requirement of the software but an obligation of the trustee to adhere to the legislation.
7. Ensuring beneficiaries are paid before the head contractor payment is taken out.
 - a. This function is a responsibility of the trustee and must be enforced through direction and adherence to the act.
8. The validity of the payment claim.
9. Top-up for shortfall of bank charges taken from an account.
 - a. There will be instances in projects where payment(s) to subcontractors are due to be paid but payments from the principal to the project trust account have not occurred yet.
 - b. There will be instances in projects where bank charges are taken from a trust account balance when there is no money in the trust account. The trustee will need to top-up this missing amount.
 - c. This top-up could be part of a total top-up amount for the beneficiary payment or a discrete top-up for the bank charges only.

Subcontractors

Subcontracts have a contracted 5% retention amount unless otherwise agreed.

| # | Subcontractor type | Subcontractor name | Email | Subcontractors contact name | A/C# | BSB | Total subcontract value (EX GST) |
|----|---------------------------|---------------------------|-------------------|-----------------------------|--------|--------|----------------------------------|
| 1 | Excavation | I can dig that | admin@icdt.com.au | Doug Walker | 123456 | 999999 | \$200,000.00 |
| 2 | Plumber | Leigh King Plumbing | admin@lkp.com.au | Leigh King | 234567 | 999999 | \$545,454.55 |
| 3 | Electrician | Bright Spark Electricians | admin@bse.com.au | Suzan Spinks | 345678 | 999999 | \$1,090,909.09 |
| 4 | Concreter | Hard and Fast Concreting | admin@hafc.com.au | Billy Jones | 456789 | 999999 | \$372,727.27 |
| 5 | Bricklayer | Stack 'em | admin@se.com.au | Michael Brown | 567890 | 999999 | \$16,636.36 |
| 6 | Carpenter | Swinging Hammers | admin@sw.com.au | Eddie Clavetta | 678901 | 999999 | \$263,636.36 |
| 7 | Plasterer | World beating sheeting | admin@wbs.com.au | Jason Arthurs | 789012 | 999999 | \$170,000.00 |
| 8 | Tiler | Pick and stick Tiling | admin@past.com.au | Kurt Williams | 890123 | 999999 | \$78,181.82 |
| 9 | Painter | Strokes Painting | admin@sp.com.au | Wendy Murphy | 901234 | 999999 | \$130,909.09 |
| 10 | Glass and aluminum | Classy Glass | admin@gc.com.au | Cameron Langdon | 987654 | 999999 | \$49,090.91 |
| 11 | Roofing | You're Covered Roofing | admin@ycr.com.au | Geoff Valk | 876543 | 999999 | \$263,636.36 |
| 12 | Structural steel | Can't hurt steel | admin@chs.com.au | Luke Howard | 765432 | 999999 | \$740,909.09 |
| 13 | Electricity (Fire) supply | Get it started | admin@gis.com.au | Craig McInnes | 654321 | 999999 | \$227,272.73 |
| 14 | Landscaping | Rocks, Roots, and Shoots | admin@rrs.com.au | Emily Joseph | 543219 | 999999 | \$21,818.18 |

Suppliers

| # | Supplier type | Supplier name | Suppliers contact name |
|---|---------------|--------------------------|------------------------|
| 1 | Site sheds | Stock and Store | Peter Collis |
| 2 | Timber | JT Timber and Hardware | James Triton |
| 3 | Concrete | Mix it up | Jeremy Hatcher |
| 4 | Tiles | Mosaic Queensland | Chris Henderson |
| 5 | Bricks | Cured Queensland | Jess Houghton |
| 6 | Fencing | We've got you surrounded | Rod Kelly |
| 7 | Hardware | Big Chain hardware | Terry Mackie |
| 8 | Security | Under lock and key | Anthony Long |
| 9 | Signs | Now you see it | Joy Daniels |