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# MCA Toronto Code of Practice

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## CODE OF PRACTICE

For

MECHANICAL CONTRACTORS AND SUB-CONTRACTORS

Mechanical Contractors and their trusted Sub-Contractors are keenly aware of the complexities in ensuring that they furnish the project requirements in a coordinated and timely manner for the delivery of a quality and profitable contract.

The Contractors further agree that the realization of these requirements occurs only when cooperation, communication and commitment are executed in the spirit of a total team effort and that the team results ultimately depend on a dedicated undertaking by every team player.

- Introduction
  
- Definitions
  
- Responsibilities
  
- Pre-Tender
- Tendering
- Post Tender
- Pre-Construction
  
- Project Construction
  
- Changes to the Work
  
- Dispute Resolution
  
- Notices
  
- Payment
  
- Substantial Performance
  
- Warranties
  
- Conclusion
  
  
- For a PDF version of MCAT Code of Practice, please click [HERE](#)

## 1. INTRODUCTION

This Code of Practice is to be regarded by the industry participants as a management and control process, which will result in improved communications, cooperation and profits for all team members.

Construction, by its very nature, requires a cooperative team effort. The more cohesive and coordinated the teamwork, the more efficient and profitable the work will become.

In no part of the construction process is this more true than in mechanical contracting, where the plumbing, heating, ventilating, refrigeration, insulation, controls, and fire protection systems are so closely integrated; not only in function, but also in limited physical space and schedule.

That is why there is a requirement for the Mechanical Contractor to coordinate an efficient integration of construction processes that can involve many other Contractors.

The Mechanical Contractor should be an experienced specialty practitioner, capable in the practices of scheduling, coordinating and assisting the mechanical team members; to know and understand what, where, and when their contribution and input is required.

This Code of Practice spells out the responsibilities and obligations of all Contractors. It defines the role of the Mechanical Contractor as the captain of the mechanical team and the relationship with the Mechanical Sub-Contractors. All mechanical team members, their associates and employees, will at all times conduct themselves with courtesy, integrity, and a totally professional attitude towards the team objectives.

## 2. DEFINITIONS

The following is a list of definitions for the terms used in this Code of Practice.

**General Contractor** - The General Contractor or Contractor who has a direct contract with the owner.

**Mechanical Contractor** - The Contractor who has a direct contract with the General Contractor. The Mechanical Contractor might also be the General Contractor.

**Mechanical Sub-Contractor** - A Contractor who has a Sub contract with the Mechanical Contractor.

**CCN - Contemplated Change Notice** – is a written instruction prepared by the consultant and the owner directing the Mechanical Contractor to quote work that may be potentially added to the contract scope. Once received and approved, the owner may proceed with a change order or a change directive or delay the work entirely.

**CD - Change Directive** – is a written instruction prepared by the consultant and signed by the owner directing the Mechanical Contractor to proceed with the work within the General scope of the contract documents prior to the owner and Mechanical Contractor agreeing upon adjustments in the contract price and the contract time. When a Change Directive is in place, all timesheets must be tracked and authorized by the Consultant / Owner.

**CO - Change Order** – is a written amendment to the contract prepared by the consultant and signed by the owner and the Mechanical Contractor stating their agreement upon:

- a change in the work, schedule and or milestones;
- the amount of the adjustment in the contract price, if any; and
- the extent of the adjustment in the contract time, if any

Commissioning – A quality process consisting of deliverables and documentation designed to ensure the project meets all the owner's requirements and the design intent.

Consultant – is the person or entity engaged by the owner and identified as such in the contract agreement. The Consultant is the architect, the engineer or the entity licensed to practise in the Province or Territory of the place of the work. The term Consultant refers to the individual and / or the entity.

Request for Information - A Request for Information (RFI) is the primary method for Mechanical Contractors to ask questions of the Consultant. These questions can pertain to any part of the contract, documents, scope etc. All questions and answers should be kept in writing under this format. The Consultant / Owner will provide a response and return the RFI to the Contractor that issued it. Once the answer is received, it will be up to the Contractor to agree and accept the answer or disagree and ask new questions on the subject. All RFI's should determine if a Site Instruction or a Change Order is necessary.

Substantial Performance – is defined in the lien legislation applicable to the place of the work. If such legislation is not in force or does not contain such definition, Substantial Performance of the work shall have been reached when the work is ready for use or is being used for the purpose intended and is so certified by the Consultant.

Shop Drawings – are drawings, diagrams, illustrations, schedules, performance charts, brochures, product data and other data, which the Mechanical Contractor provides to illustrate details of portions of the work. The Shop Drawings must be reviewed and approved by the Consultant / Owner prior to procurement.

Site Instruction - A Supplemental Instruction (SI) or Site Instruction is the primary method for the Consultant to issue instructions to the Mechanical Contractor where no cost impact is involved. SI's can be the result of either a Request for Information or a Site Visit and cross-reference those documents. When they are issued to the Contractor, there is an "Acknowledge" step where the Contractor is required to show that he has received the document.

Transmittal - Transmittals are a way to send documents between the parties in a contract. Transmittals can be created to send out shop drawings, change orders, etc. and are tracked in the database just like all other documents. You can use a transmittal to send the document electronically (by e-mail) or you can use it to track printed documents that are sent out by courier or mail.

### 3. RESPONSIBILITIES

#### 3a. PRE-TENDER

Mechanical Contractors and their Sub-Contractors should thoroughly study the specifications and contract documents to determine if they will tender the project. They must have the necessary capacity, capability, resources, financial ability, and bonding capacity to perform the work.

If and when the Mechanical Contractor decides to bid the project, they should alert their prospective Mechanical Sub-Contractors in sufficient time. It is appropriate to alert those Mechanical Sub-Contractors with whom the Mechanical Contractor prefers to work. They should give preference to those Mechanical Sub-Contractors who endorse and uphold the Code of Practice.

If bonding is required, the Mechanical Contractor should give notice to the Mechanical Sub-Contractors that the project is bonded.

The Mechanical Contractor shall endeavour to keep their Mechanical Sub-Contractors alerted to any revised instructions

or addenda, which they receive. However, the Mechanical Sub-Contractor should not leave the responsibility for information concerning changes or addenda entirely to the Mechanical Contractor. They should use their own initiative and inquiry sources as well.

The Scope of Work shall be understood by all parties prior to bid closing.

### 3b. TENDERING

The Mechanical Contractor and Mechanical Sub-Contractor shall treat as confidential all quotations submitted or received.

The Mechanical Contractor will accept prices only from those Mechanical Sub-Contractors with whom they are prepared to work. The Mechanical Contractor should award the work to the Mechanical Sub-Contractors from whom the least expensive, compliant price was accepted, prior to tender closing. They must also ensure that clarifications are understood and accepted or deleted for cause.

The Mechanical Contractor, the Mechanical Sub-Contractor or their vendors must not seek or accept information concerning competitors' bids, prior to the closing the tenders.

The Mechanical Contractor shall name the Mechanical Sub-Contractor at time of tender, if the tender calling authority requests it.

### 3c. POST-TENDER

When a contract or letter of intent is received, the Mechanical Contractor should inform their Mechanical Sub-Contractors at the earliest possible date.

When the Mechanical Contractor receives a contract or letter of intent, that is different from the original specified in the plans and specifications, the Mechanical Contractor should make a copy of the contract available for review by the Mechanical Sub-Contractors involved.

If the Mechanical Contractor's total tender price exceeds the project budget and adjustments are requested to bring the project within budget, the Mechanical Contractor will consult with the named Mechanical Sub-Contractors in working out the scope of changes and price adjustments. Where it becomes necessary to effect changes to bring a project within budget, the named Mechanical Sub-Contractors must respond fully and promptly with requests to effect or offer changes that will reduce project costs.

In all other instances, the contracts should be awarded for the amounts that were tendered. Prior to award, the Mechanical Contractor will issue a schedule of expectations to the chosen Mechanical Sub-Contractors for review and acceptance.

### 3d. PRE-CONSTRUCTION

The Mechanical Contractor should ensure that the Mechanical Sub-Contractors are provided with current sets of drawings and specifications to satisfy their requirements.

The Mechanical Contractor will provide all information required by the Mechanical Sub-Contractors for the preparation of shop drawings, maintenance schedules and instruction requirements. The Mechanical Contractor, (before the work commences,) should prepare a mechanical project schedule. All Mechanical Sub-Contractors should receive a copy of this schedule. Revised schedules, if necessary, will be made available to the Mechanical Sub-Contractors and major equipment suppliers without delay.

It is recommended that the Mechanical Contractor have their jobsite foremen / superintendent attend the first Mechanical coordination meeting. It is suggested that Mechanical Sub-Contractors' representatives attend the initial coordination meeting as well. Also, it is required that their jobsite foreman meet at the jobsite with the Mechanical Contractor's foreman or superintendent prior to moving materials, equipment, or manpower onto the jobsite. Minutes of all mechanical meetings should be prepared by the Mechanical Contractor and transmitted to all Mechanical Sub-Contractors. The Mechanical Contractor should plan and schedule the job in consultation with Mechanical Sub-Contractors.

The Mechanical Contractor should meet with the General Contractor to finalize schedules, deliveries, hoisting, storage, arrange procedures applicable to clean-up, extras, back charges, etc. The General Contractor, with input from the Mechanical Contractors, and major equipment suppliers, should review the final schedule, communication procedures relating to notices of change and change orders, coordination, progress reports, the requirements for progress invoices / payments.

All equipment shall be ordered, complete with shop drawings, immediately after award of contract.

### 4. PROJECT CONSTRUCTION

The Mechanical Contractor and Mechanical Sub-Contractors shall cooperate effectively in matters of job security, deliveries, hoisting, storage, safety, extra work, clean-up of debris, General housekeeping and in General, do all in their cooperative power to expedite the successful completion of the job.

The Mechanical Contractor should coordinate interferences with each Sub-Contractor and ensure that current drawings are made when required. All interferences must be reported to the engineer of record via RFI.

All equipment shop drawings and schedules should be handled as expeditiously as possible.

The Mechanical Sub-Contractor shall accept direction only from the Mechanical Contractor.

From the first day on the project, the Mechanical Contractor's superintendent should establish a relationship of cooperation with the Mechanical Sub-Contractors' representatives.

Primary communication between the Mechanical Contractor and Mechanical Sub-Contractors should be office to office. The offices, on the basis of written communications, shall direct their field people appropriately. All correspondence should be dealt with promptly.

The Mechanical Contractor shall ensure that all site instructions are properly authorized, clear and documented before directing to Mechanical Sub-Contractors for execution. It must be noted that Site Instructions are not intended for cost adjustments as their title suggests.

All CCN's, CCO's, CN's, and CO's as well as requests to alter designs, schedules, etc., should immediately be passed to all Mechanical Sub-Contractors. The Mechanical Contractor must assume that any request or instruction pertains to a Mechanical Sub-Contractor as well.

The Mechanical Contractor and Mechanical Sub-Contractor shall ensure that all applicable permits are ready before installation begins.

All Mechanical team members should arrange delivery of equipment to meet the job schedule in order to create a minimal disruption to other team members.

The Mechanical Contractor should have equipment placed as quickly as possible so that Mechanical Sub-Contractors have clear directions for their pipes, ducts, etc. The work should be scheduled so that the chance of damage to and by others is minimized.

The Mechanical Contractor will notify the Mechanical Sub-Contractors of all site meetings and invite them to attend as required. It is the Mechanical Sub-Contractor's responsibility to bring to the attention of the Mechanical Contractor any and all potential problems. It is everyone's responsibility to mention all unsafe practices and conditions on the job.

The Mechanical Contractor should review all the commissioning and related documentation requirements for the project.

The Mechanical Contractor should have a plan and work with the construction and consultant teams to effectively complete the commissioning responsibilities to support a clean close out and acceptance.

The Mechanical Contractor should represent and support Mechanical Sub-Contractors. Deficiencies shall be reported in writing. They shall be attended to promptly. When completed, the status is to be confirmed in writing.

## 5. CHANGES TO THE WORK

The owner, through the consultant may make changes in the work consisting of additions, deletions or other revisions to the work or schedule by change order or change directive. The Mechanical Contractor shall not perform a change in the work without written authority to do so.

When a change in the work is proposed or required, the consultant will provide the Mechanical Contractor with a written description of the proposed change in the work. The Mechanical Contractor shall promptly present an amount of adjustment for the contract price, if any and the adjustment in the contract time, if any.

When the owner and the Mechanical Contractor agree to the adjustments in the contract price and contract time, such agreement shall be effective immediately and be recorded in a Change Order. The value of the work performed as a result of the Change Order shall be included in the application for progress payment.

When the owner and the Mechanical Contractor proceed with a change in the work without agreeing to an adjustment of contract price, through the Consultant, a Change Directive may be introduced instead.

A Change Directive shall only be used to direct a change in the work, which is within the general scope of the contract documents.

The adjustment in the contract price for work carried out by a change directive shall be determined on the basis of the cost of the Contractors actual expenditures valued in accordance with the terms and conditions of the contract documents. All time and material sheets need to be authorized by the Consultant / Owner.

## 6. DISPUTE RESOLUTION

Differences between the parties to the contract as to the interpretation, application or administration of the contract or any failure to agree where agreement between the parties has been previously established, shall be called disputes. Every attempt should be made to resolve disputes quickly and fairly.

If a dispute is not resolved promptly, the consultant will give such instructions to continue the performance of the work in order to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, being understood that by doing so, neither party will jeopardize any claim the other may have.

The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.

If the dispute is unresolved after a period of ten (10) business days, the parties shall request a Project Mediator to assist in reaching an agreement. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40.

If mediation cannot resolve the matter in a reasonable amount of time, then either party may refer the dispute to be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40.

## 7. NOTICES

Notices, like most contract documents, play an important role in ensuring clear and concise communications during the project. All parties must notify the other party in writing for questions, answers, requests, changes etc...

Many contracts give time limits for Notices and Mechanical Contractors must be aware of these limits when they pertain to the contract documents.

Notices, when required should be on letterhead, dated, signed and distributed in a manner consistent with the terms and conditions of the contract.



When properly used, notices protect Mechanical Contractors and Sub-Contractors from those who prefer to work outside the limits of the contract documents.

The Mechanical Contractor must be especially mindful if they receive notices from the Consultant / Owner. Particular attention should be taken with regard to time allotted to provide information, termination of the contract for cause or stoppages in work for unplanned reasons. These notices, no matter who the author is, must comply with the terms and conditions of the contract documents.

## 8. PAYMENT

Terms and Conditions for payment of all invoices should be noted in the contract documents. Invoices should be received promptly and in accordance with the timeframe of the pre-agreed General Contractors' / Owners' schedule.

All discrepancies must be resolved immediately and then the invoice must be paid as per the contract documents. Back Charges are to be avoided whenever possible through the use of mutually agreed Change Orders.

Unjustified or unexplained Back Charges are not acceptable. Where the Mechanical Contractor has been advised of a Back Charge in a progress draw the Mechanical Contractor must verify / agree / disagree to the charge in writing without delay. If the charge pertains to a Mechanical Sub-Contractor, they must be notified in writing, without delay in order to provide an opinion regarding its legitimacy.

If there is physical damage by others, the Mechanical Contractor will make every effort to have the appropriate Contractor Back Charged or made responsible for rectifying the damage.

Back charges flowing through the Mechanical Contractor must be reviewed by the parties involved prior to acceptance.

The Mechanical Contractor must monitor the status of all Change Orders to ensure all pricing is complete and the work is approved by the General Contractor prior to work being started. Mechanical Sub-Contractors must ensure that invoicing identifies assigned numbers and reflects approved costs for all work prior to invoicing.

Final payment and holdbacks must be made promptly in accordance with contractual terms.

## 9. SUBSTANTIAL PERFORMANCE

The Mechanical Contractor must maintain momentum on the job so that all Mechanical Sub-Contractors bring the project to a timely conclusion. Time is of the essence on all projects.

Total cooperation should be provided to successfully and expeditiously commission all mechanical systems and to provide information for proper labeling.

The Mechanical Contractor should issue timely information to all the Mechanical Contractors regarding substantial performance dates.

The Mechanical Contractor is responsible for obtaining a list of all deficiencies and for forwarding a complete list to the appropriate Mechanical Sub-Contractor, promptly. If the completion of a deficiency requires the cooperation of more than one member of the Mechanical team, the Mechanical Contractor will coordinate this.

The Mechanical Contractor must ensure that all as-built drawings maintenance manuals, and all other turnover documents are accurate and turned over to the General Contractor / Consultant / Owner as close to the substantial performance date as possible.

## 10. WARRANTIES

For any calls received during the warranty period, the Mechanical Contractor should make a serious effort to determine the responsibility for the problem before calling in the Mechanical Sub-Contractor.

When call back responsibility is determined, the Mechanical Sub-Contractor must attend to the problem promptly.

Warranty items should be treated like a Site Instruction. However, if it is determined that the warranty call has been deemed to be "new work" or not related to the original scope of work, then the Change Directive approach should be taken. All time and material sheets should be authorized by the consultant / owner for invoicing and payment.

## 11. CONCLUSION

By working together as a TEAM, the Mechanical Contractors and Mechanical Sub-Contractors can improve their company profile and profitability.

By accepting and practicing the responsibilities, enumerated in the Code of Practice, a major advance in returning ethics and cooperation to the work place can be achieved.

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