



Government of **Western Australia**
Department of **Finance**



Project Bank Accounts

January 2021



Agenda

- What are PBAs
- Tender process
- Contract award
- Payment process
- Other information



Project Bank Accounts

An overview



A PBA is...

- A project specific bank account set up by the head contractor
- An account operated consistent with the trust agreement
- A step in the payment process, not a pre-funded bank account.



PBAs can...

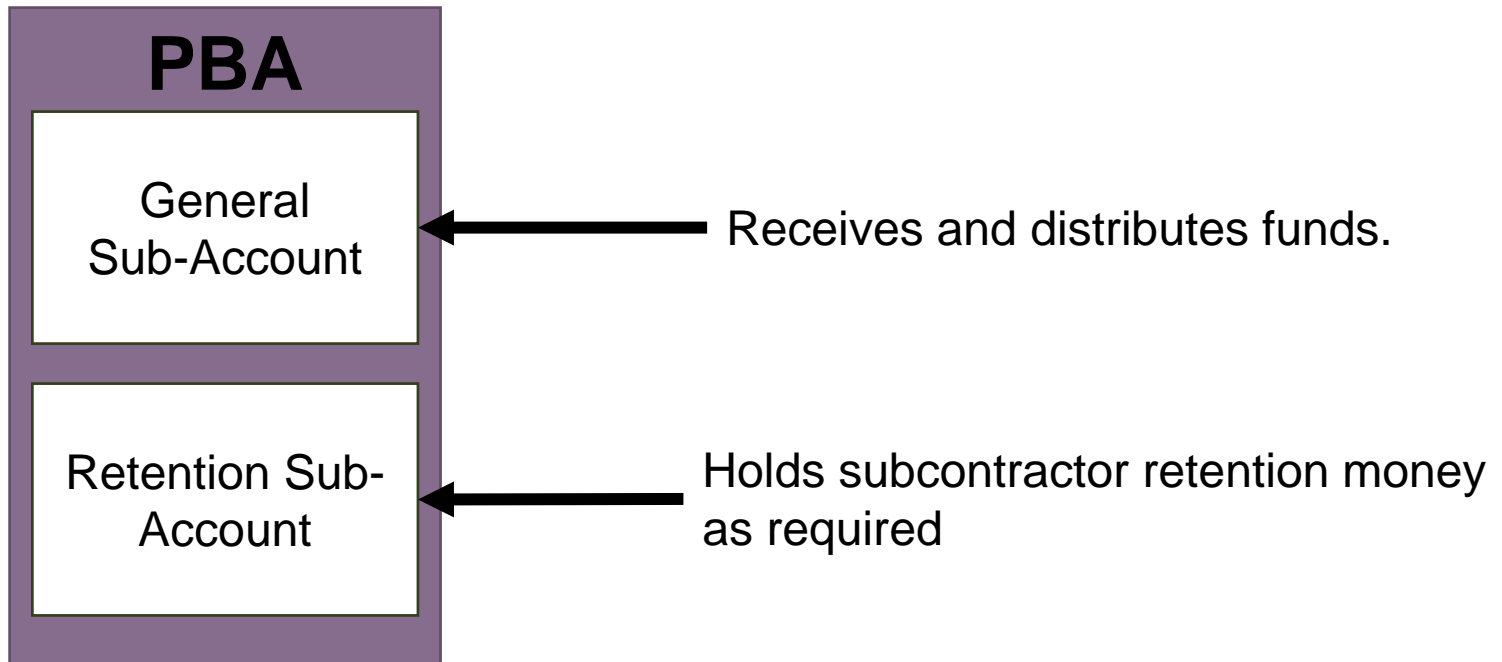
- Speed up the payment process for the next tier in the supply chain
- Provide a degree of insolvency protection
- Increase transparency and accountability in the payment process



PBAs do not...

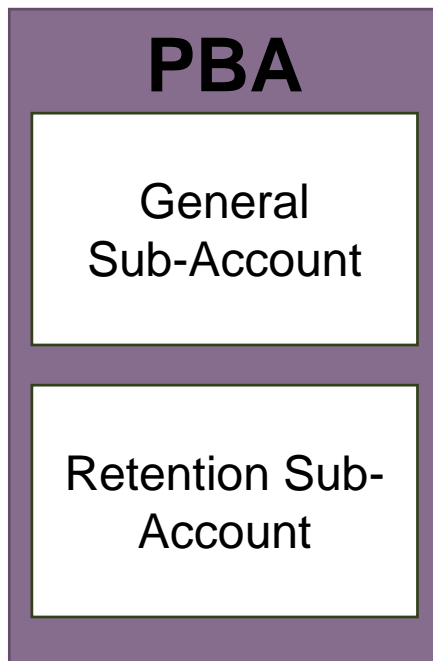
- Alter the contractual rights and responsibilities of contractors to:
 - Select subcontractors and manage their performance
 - Retain retentions from subcontractors (which are held in the trust account)
 - Withhold payment when obligations are not satisfied
 - Seek adjudication or commence legal action when in dispute (also applies to subcontractors)

About PBAs



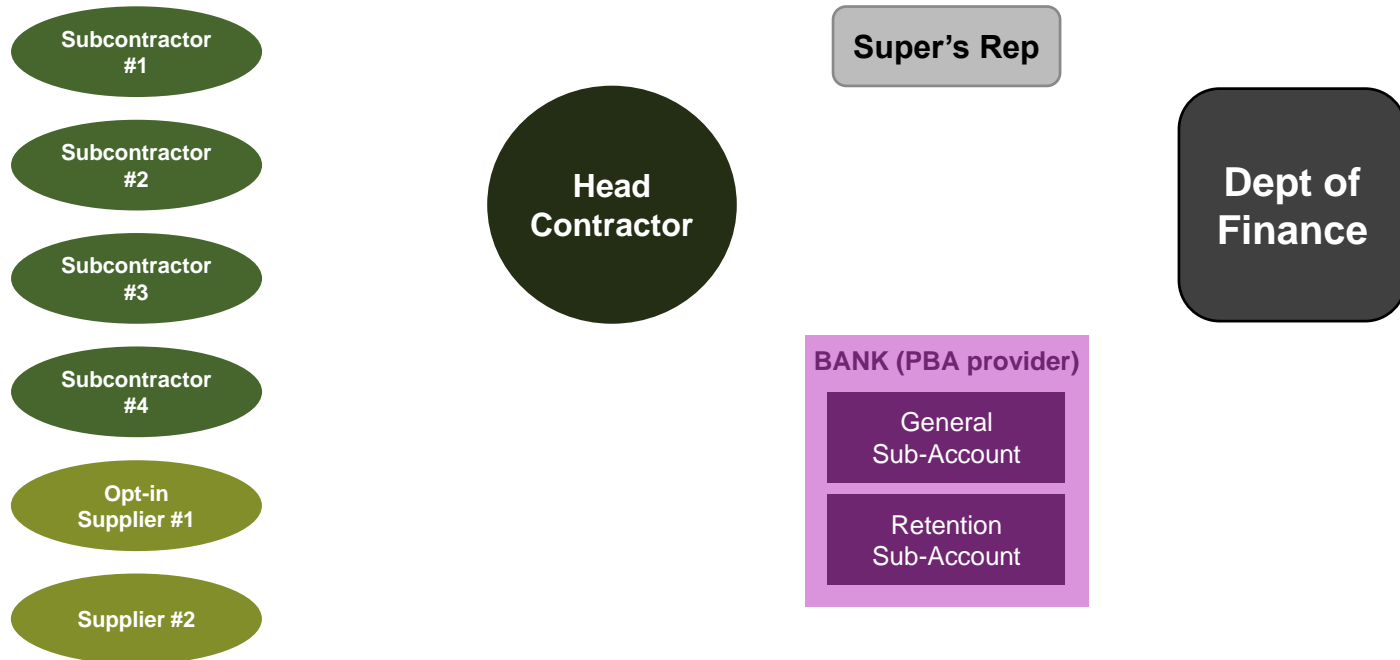


About PBAs

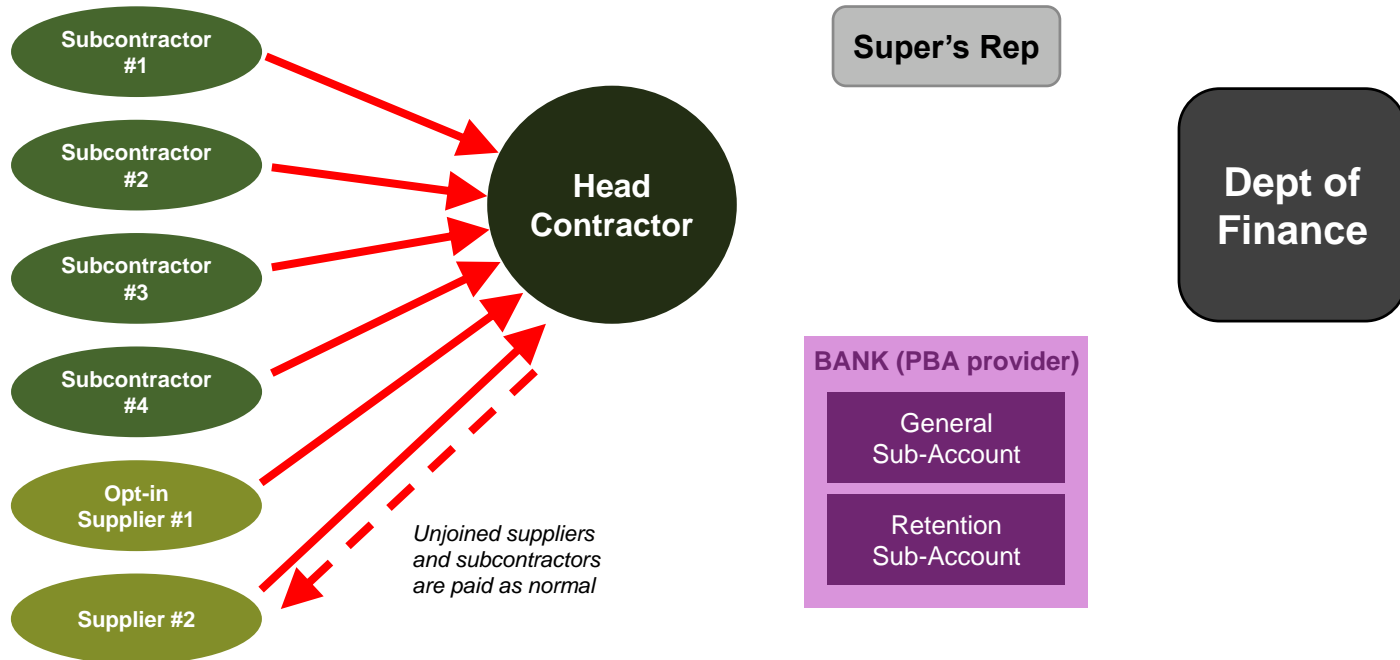


- One PBA per contract
- General account must have a zero balance at close of business
- Must not have an overdraft facility
- Fees, charges and accrued interest must be directed to a non-PBA account.

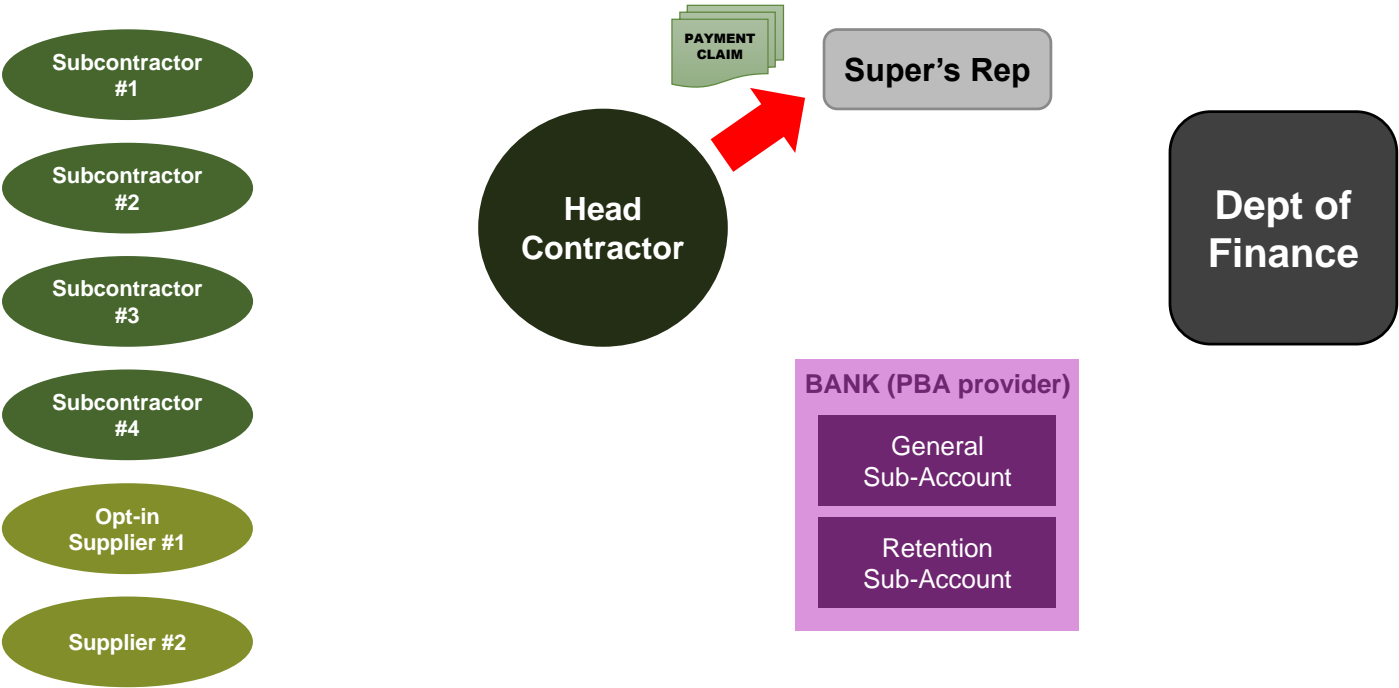
Operating the PBA



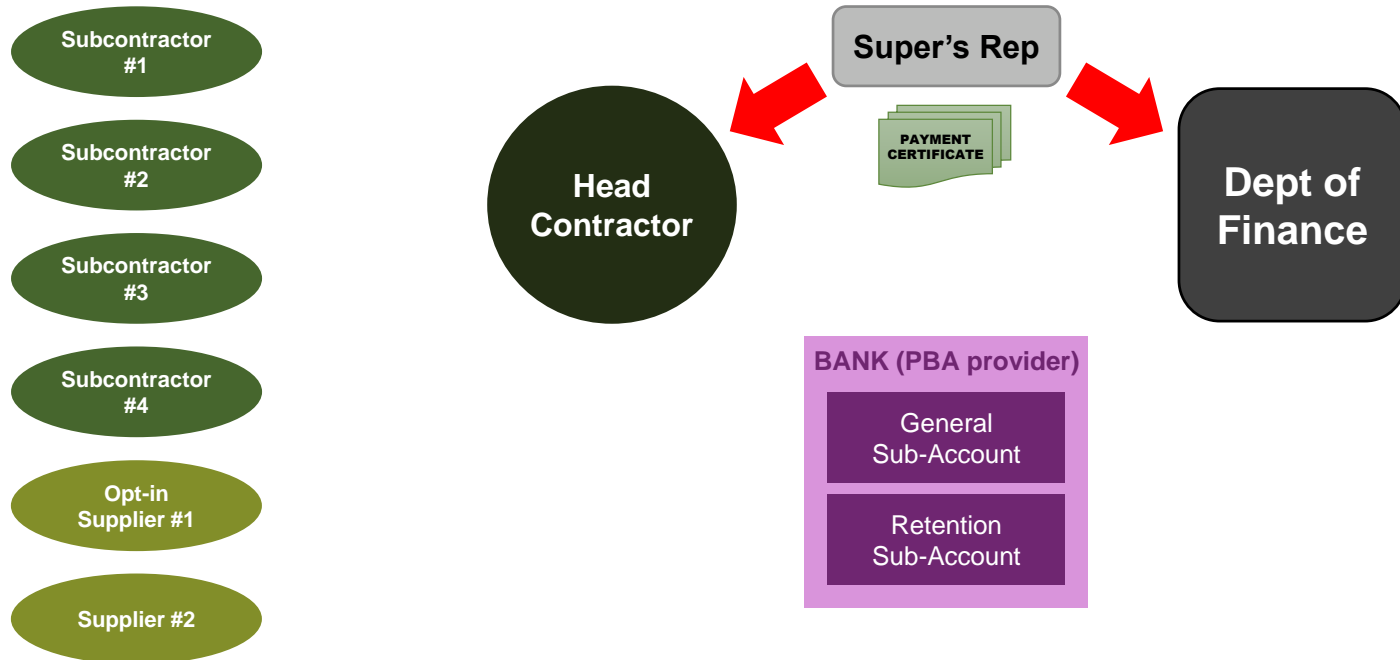
1. Subcontractors claim payment from Head Contractor



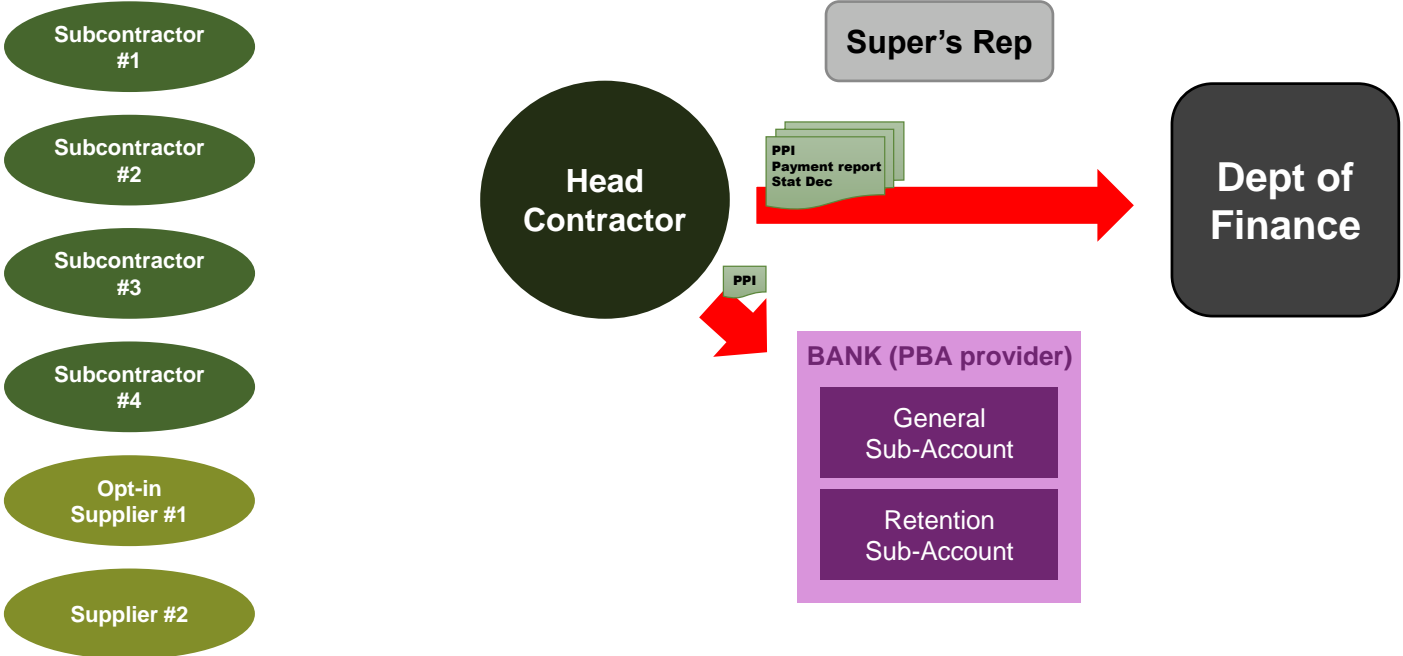
2. Head Contractor submits the Payment Claim to the Superintendent's Representative



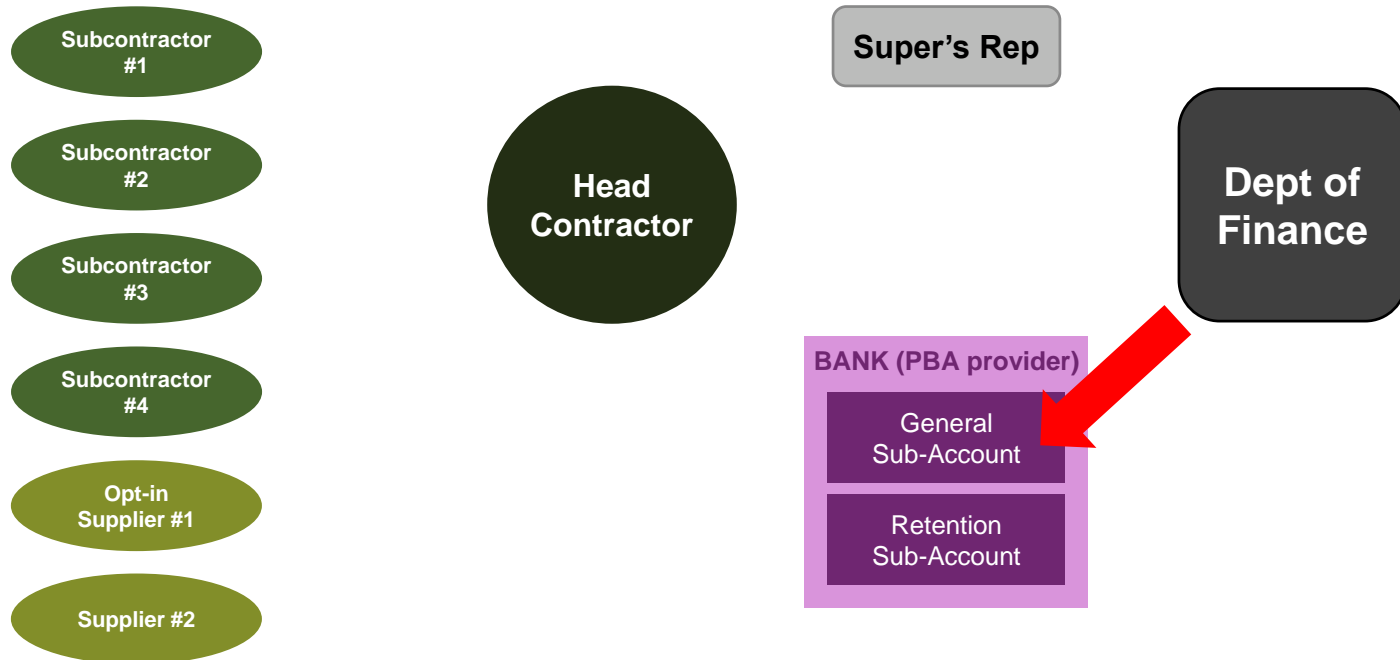
3. Superintendent's Representative Assesses Claim and Issues Payment Certificate to Head Contractor and Finance



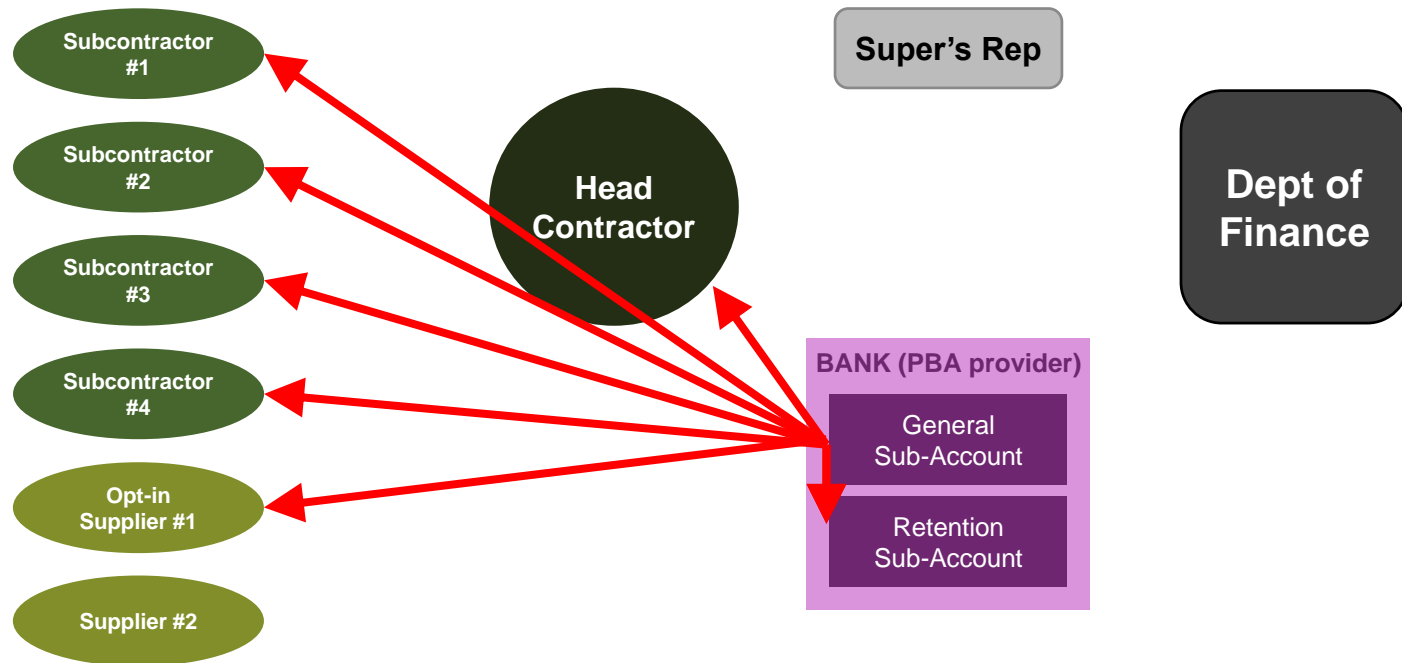
4. Head Contractor submits Progress Payment Instruction (PPI), Statutory Declaration and Payment Report to Finance



5. Finance deposits payment into General Project Bank Account on scheduled payment date.



6. Bank (simultaneously) Pays Head Contractor, Subcontractors, and Retention Account as per payment instruction





Commonwealth Bank of Australia

- PBA structure should not affect:
 - General security agreement
 - Charge over receivables
 - Floating charge
- Structure does not impact security over funds due to the contractor
- Speak with your financial institution to discuss potential impact on management working capital.



Project Bank Accounts

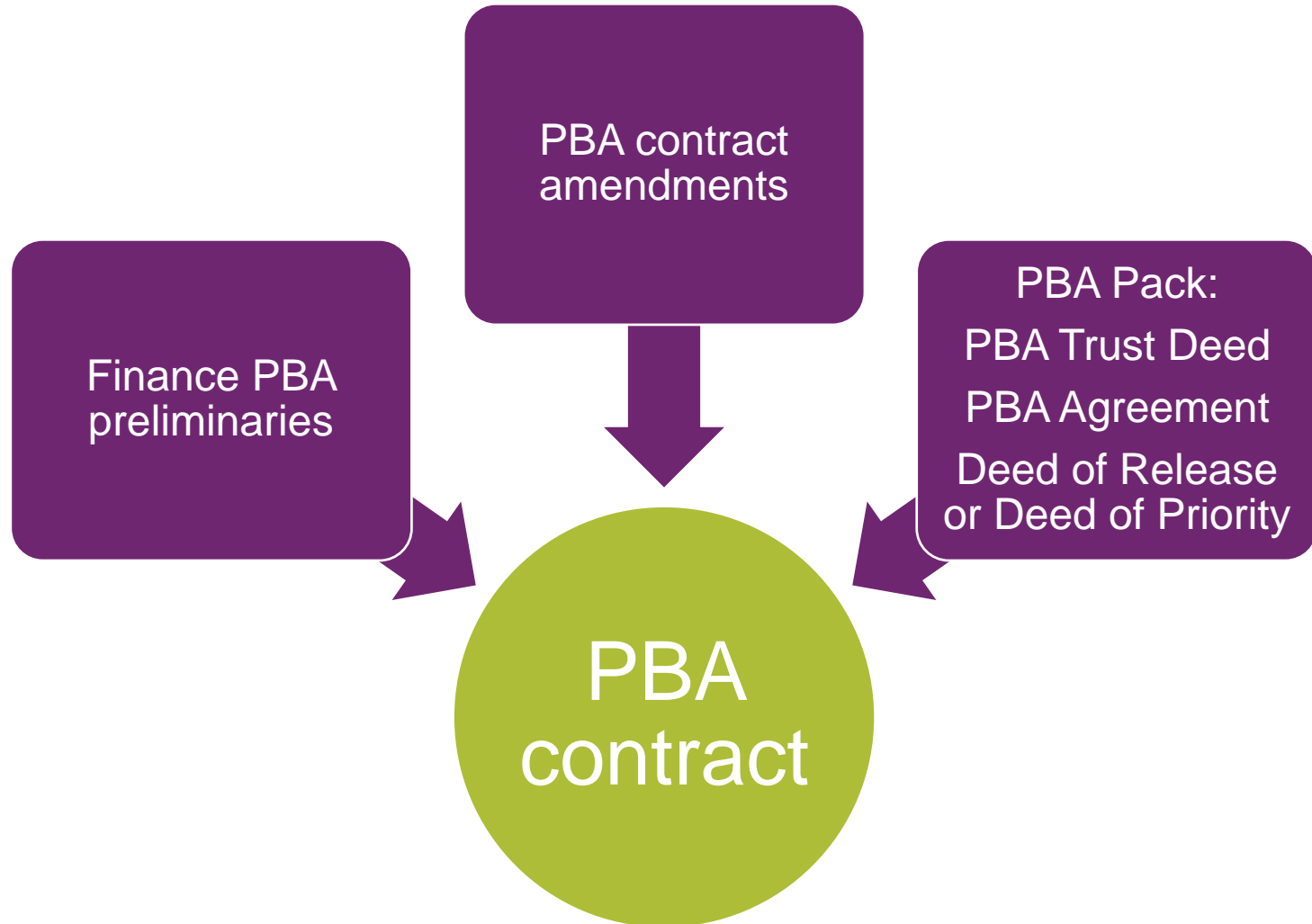
Tender process



PBAs apply...

- Construction contracts where the contract value exceeds \$1.5 million (inc. GST)
- Subcontractors are being used in the contract
- Principal may elect to apply a PBA to contracts outside this price range

PBA tender documentation





The PBA Pack

- PBA Trust Deed:
 - Establishes the terms of the Trust
 - Describes how the Trust will operate
- PBA Agreement:
 - Outlines duties and obligations of the bank



The PBA Pack

- Deed of Release:
 - Creditors agree to release the account and all money in the account from any security interests they hold.
- Priority Deed
 - Creditors agree that beneficiaries to the PBA Trust have priority should an insolvency event occur.



Tender process – contractors requirements

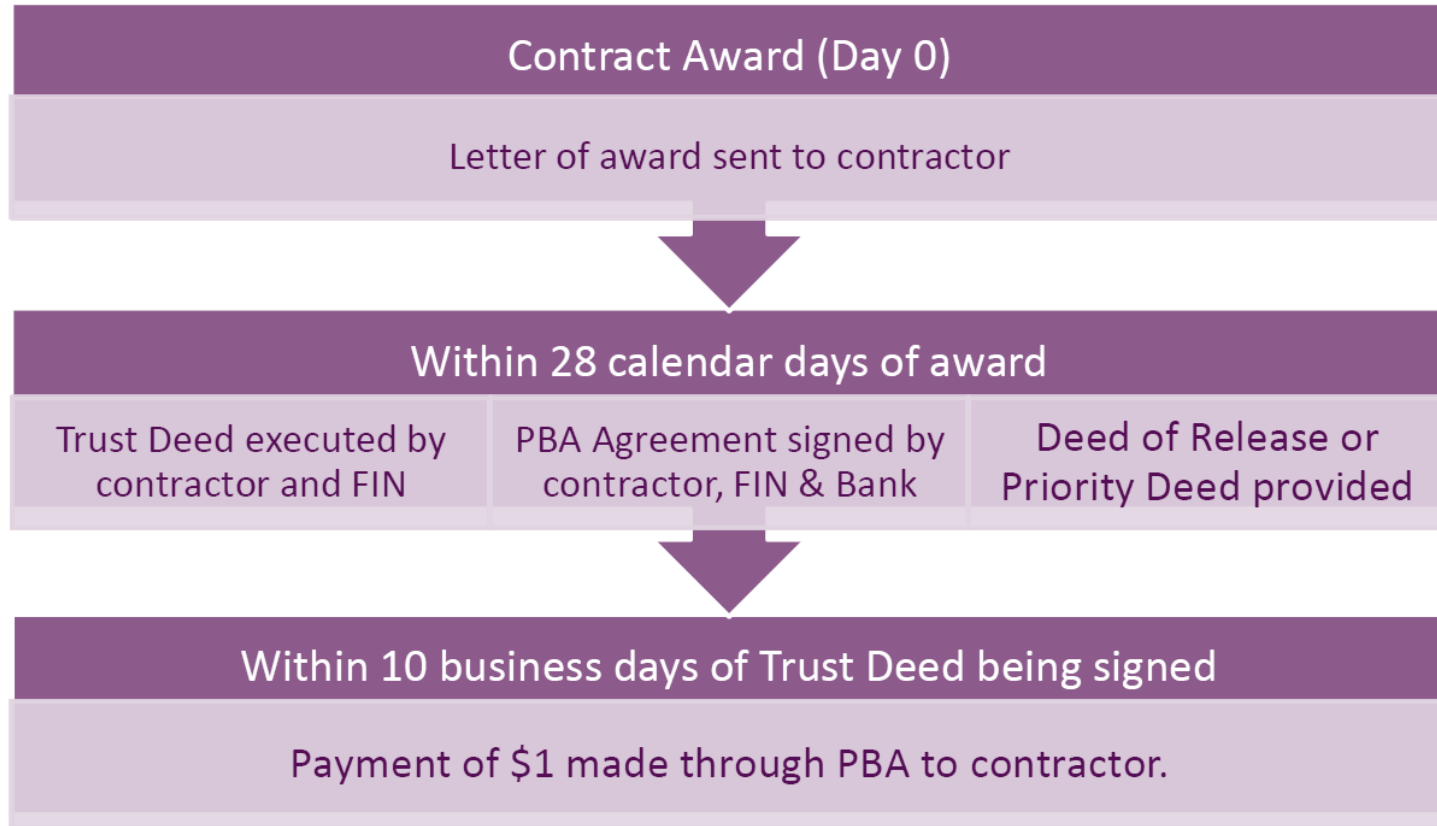
- Tenders must include the costs of administering PBAs where the submitted price is more than \$1.5 million.
 - If the tendered price is less than \$1.5 million, there is no need to build in these costs.
- Must inform subcontractors that the contract will use a PBA.



Project Bank Accounts

Contract Award

How a PBA is set up





Contract award

- The contractor will be provided with the following documents at contract award:
 - Electronic copy of the PBA pack
 - Bank information
 - PBA Guideline for Contractors



PBA establishment

- Account creation must start immediately
- Subcontractor contracts will need to be updated to include PBAs
- Completed documents should be provided to authorised signatories for signing by week 3
- Finance will be the last to sign and date all documents
- Contractor should provide subcontractors with a copy of the PBA Trust Deed.



Activating the accounts

- A \$1 test payment must be made to the contractor within 10 business days of the Trust Deed being executed
- The Test payment:
 - Establishes the trust
 - Tests the payment process

Test payment process

Contractor creates payment instruction in CommBiz for \$1



Project manager checks the payment instruction to make sure the details are correct



Finance makes payment into the account on the date for payment listed on the payment instruction

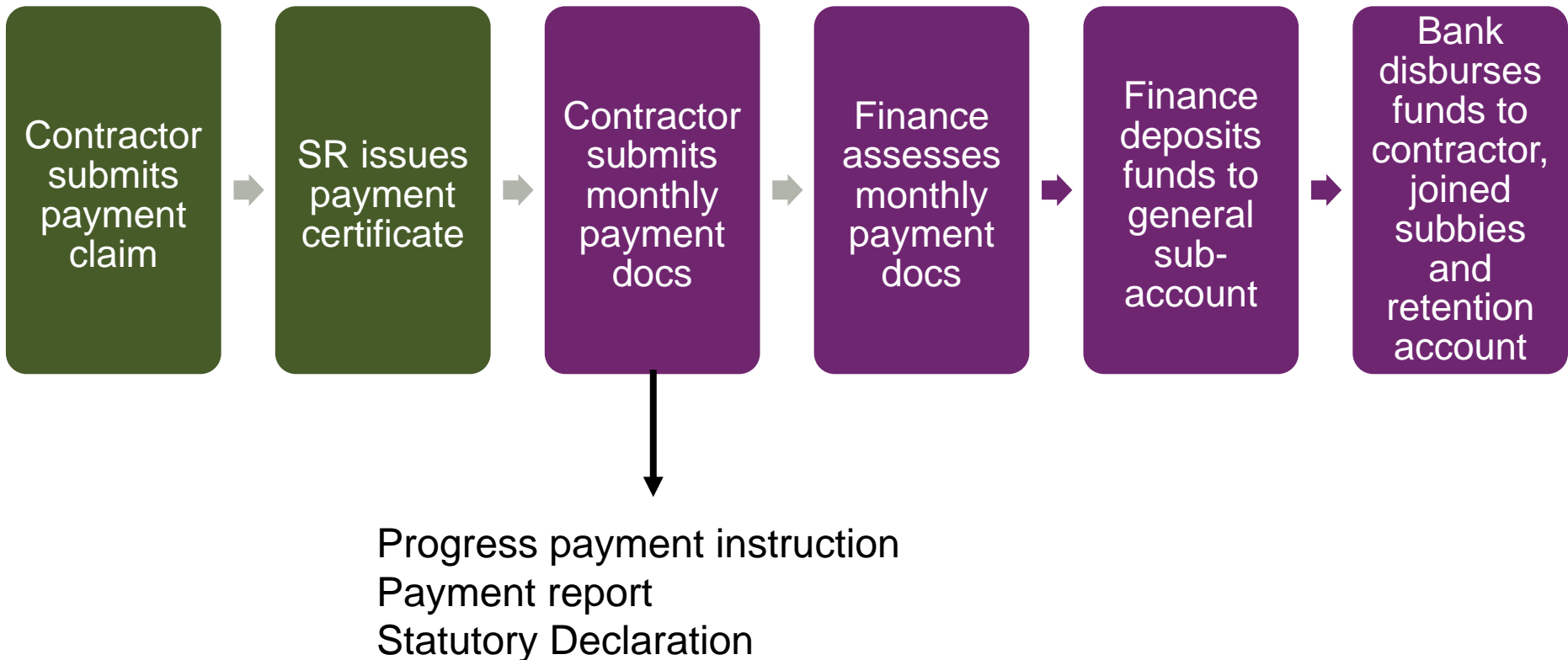


Bank disburses funds as per the payment instruction



Project Bank Accounts Payment Process

Finance PBA Progress Payments





Progress Payment Instructions (PPIs)

- Instructs the bank how and when to disburse funds
 - Total amount to be paid must equal the amount certified
 - Can submit:
 - A single instruction for all payments
- OR
- Up to three instructions, one for each payment type



PBA Payment Report

- Explains why an amount that was certified to be paid isn't reflected in the payment instruction
- Details include:
 - Amounts paid outside the monthly payment process
 - Total paid in retention to date
 - Disputes
 - Rights set off
 - Amounts the subcontractor failed to claim



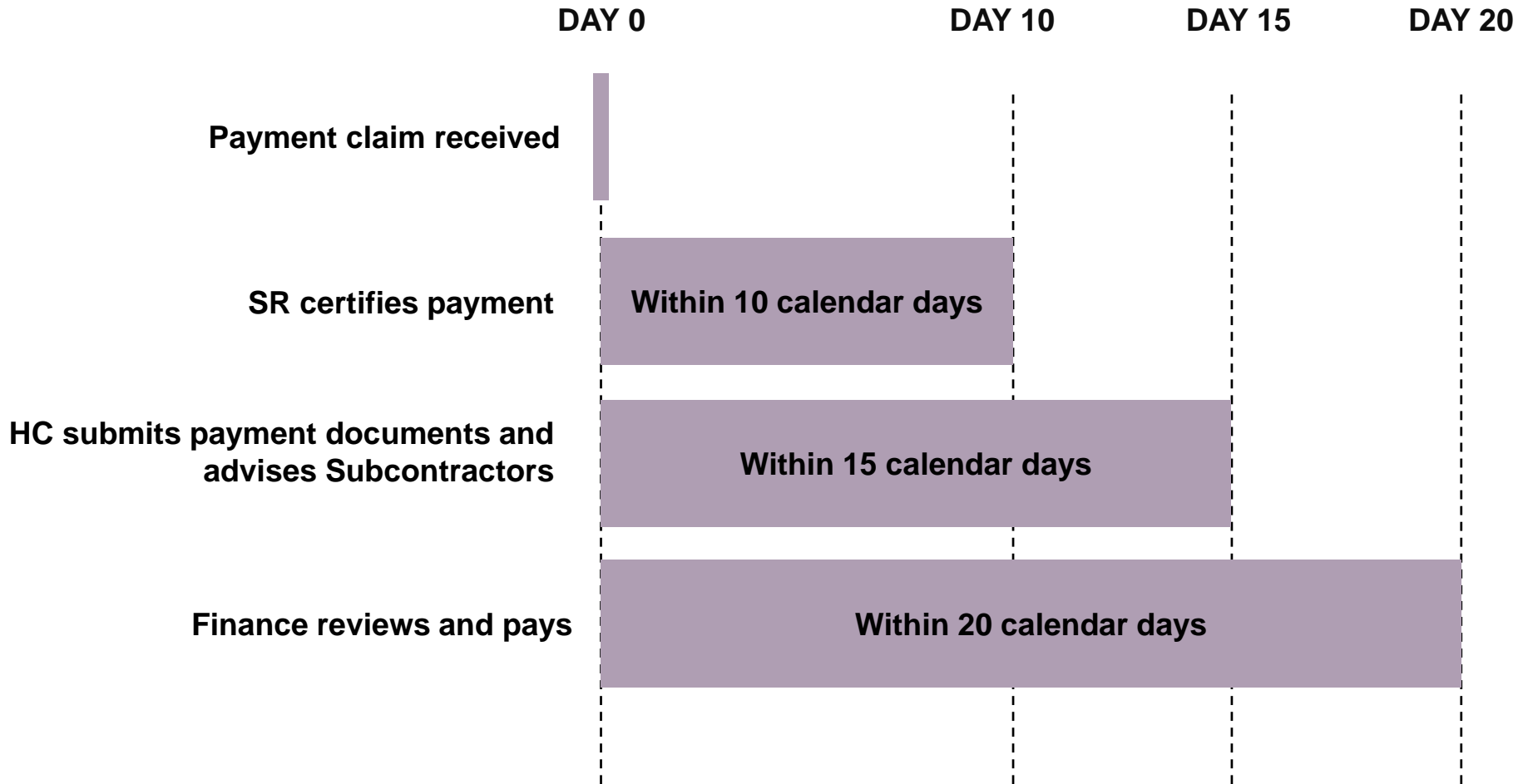
PBA Statutory Declaration (subcontractors)

- Along with the PPI and the payment report, the contractor must supply a declaration that as at the date of the PPI:
 - The PPI is true and accurate
 - The contractor has no outstanding liabilities
 - There have been no changes to existing or new security interests
 - The Payment Report is accurate.



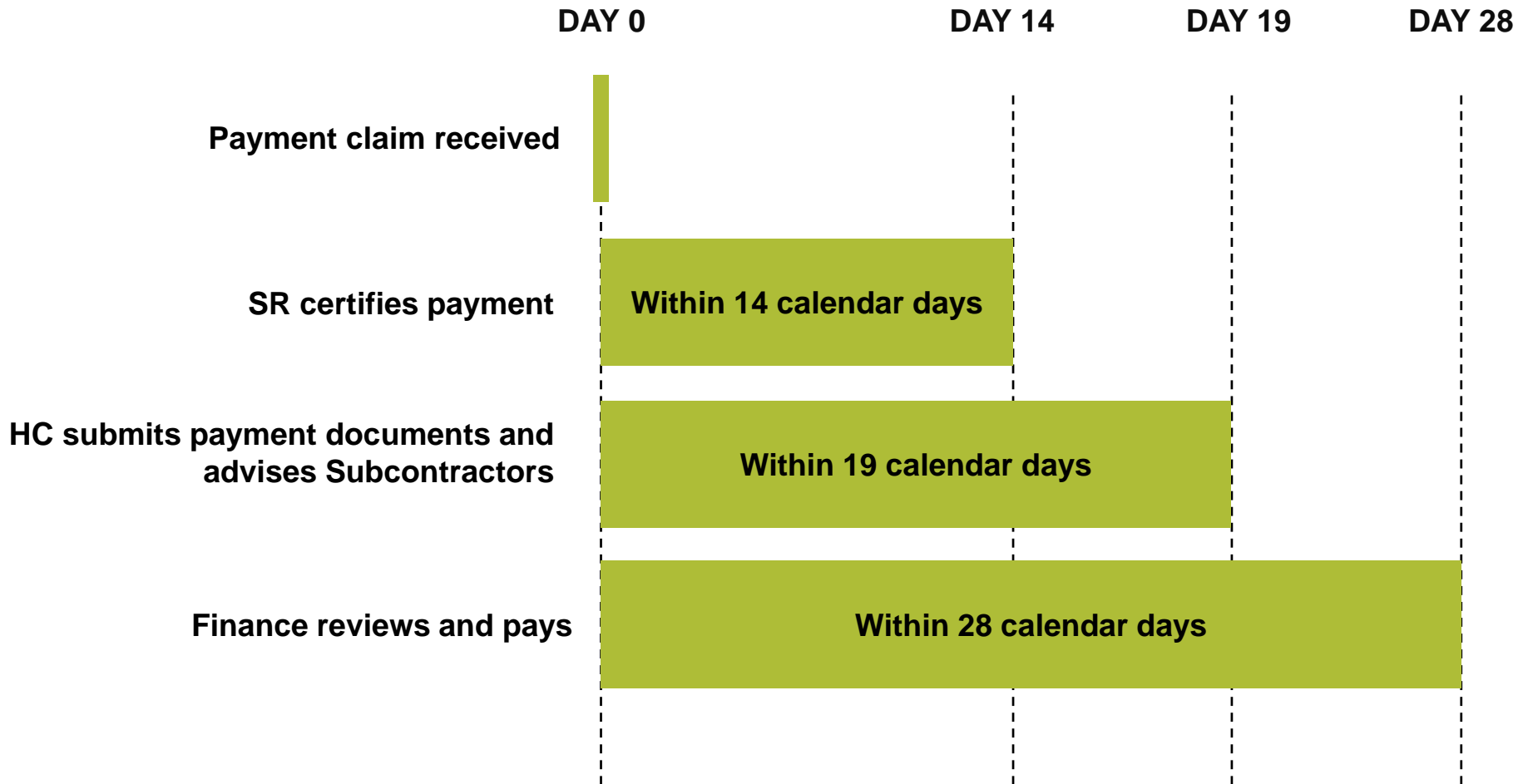
The monthly payment process

Contracts with 20 day payment terms



The monthly payment process

Contracts with 28 day payment terms





Other payments

- Payments may occur through the PBA but outside the monthly payment cycle:
 - Payment to subcontractors
 - Payment into the retention sub-account
 - Release of subcontractor retention



Government of **Western Australia**
Department of **Finance**

More information on PBAs is available at

www.wa.gov.au