

Project Initiation and Business Cases Handbook

Chapter 9

Fair Payment

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Introduction

1.1. Short and delayed payment put significant and unsustainable pressures on the industry in particular on sub-contractors which can cause insolvencies and damage to the economy as a whole. Unfair payment can also have an impact on quality and consequently on the outputs and outcomes of projects. It is therefore in the interest of contracting authorities and the industry to bring an end to these practices.

Overview

2.1. The Scottish Government is committed to paying all suppliers promptly and encourages all public contracting authorities to follow suit. Scottish Procurement Policy Note 2/2022 sets out that public bodies should evaluate past payment performance of bidders as part of the selection process in order to ensure they have a resilient and sustainable supply chain. A standardised statement is included in the policy note which assesses if the bidder has paid at least 95% of its bidders on time and if not that an improvement plan is provided. The policy note also sets out an award statement to be included in contracts which may require the use of sub-contractors. This ensures payment is made to sub-contractors at all stages of the supply chain within 30 days and that a point of contact for sub-contractors to report to is provided in the case of payment difficulties. Public bodies should also include a terms and conditions clause outlining the above. Relevant existing contracts and frameworks should be reviewed to ensure this clause is embedded when sub-contractors are being used. In the instance of late and non-payment, sub-contractors should escalate this with the public body stated in the contract. If this does not lead to a resolution sub-contractors should seek advice from SPOEprocurement@gov.scot or The Small Business Commissioner. While payment within 30 days is Scottish Government's policy, it also aspires to paying Scottish businesses within 10 days.

2.2. Section 15(5)(d) of the Procurement Reform (Scotland) Act 2014 requires contracting authorities to:

(d) set out (in their procurement strategy) how the authority intends to ensure that, so far as reasonably practicable, the following payments are made no later than 30 days after the invoice (or similar claim) relating to the payment is presented—

- (i) payments due by the authority to a contractor,*
- (ii) payments due by a contractor to a sub-contractor,*
- (iii) payments due by a sub-contractor to a sub-contractor,*

2.3. Section 18 requires contracting authorities to prepare a report on its regulated procurement activities including whether those procurements complied with its procurement strategy. [Procurement: Annual Report 2022 - 2023 was published on 19 January 2023](#) was published on 23 January 2024.