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 8/2009 sets out a clause to be used in Scottish Government contracts requiring payment of valid contractor and sub-contractor invoices within 30 days throughout the supply chain of public contracts. This policy note also asked all public bodies not using Scottish Government’s standard terms to amend their own standard terms to include the clause. It also required contracting authorities to name a point of contact for sub-contractors to report any difficulties they are having regarding payments by a main contractor. 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. The Scottish Government annual report on procurement activity: 2019 was published on 4 April 2019.