Prompt Payment

Prime contractors (as well as sub-contractors and sub-sub-contractors) in the supply chain for public sector contracts should be paid promptly i.e. within a maximum of 30 days from the date of receipt of a valid invoice.

Prompt payment of the supply chain is not only the ethical and socially responsible thing to do, it is critical to the sustainability and resilience of our supply chains in delivering critical products, services or works to, or on behalf of, the people of Scotland.

The Federation of Small Businesses reported in January 2022 that 12% of Scottish firms “say late payment is now threatening the viability of their business and that 32% of businesses sampled warned that late payment had increased in the previous three months".

The Procurement Reform (Scotland) 2014 Act requires public bodies which have an estimated total value of regulated procurement spend of £5 million or more (excl. VAT) in a financial year to publish a Procurement Strategy.

In Scotland, prompt payment is a mandatory requirement of the Procurement Reform (Scotland) Act 2014 and The Act requires your organisation to include a statement on prompt payment in your Procurement Strategy as per below:

"include the mandatory statement of the organisation's general policy on how it intends to ensure that, so far as reasonably practical, the following payments are made no later than 30 days after the invoice (or similar claim) relating to the payment is presented:

- **Payments due by the organisation to contractor(s),**
- **Payments due by a contractor to a sub-contractor(s),**
- **Payments due by a sub-contractor to sub-contractor"**

As you can see from the above, prompt payment must be made within 30 days and includes the payment to your prime contractor but also to all sub-contractors and sub-sub-contractors throughout your supply chain(s).

Prompt payment is important as it ensures cash continues to flow throughout businesses and in many cases prompt payment may provide enough money to keep businesses trading.

Organisations should ensure contracts are awarded to bidders who have good payment performance history and have systems in place so that their supply chain is paid on time in accordance with the terms of the contract. Mechanisms should be put in place to assess and monitor payment performance of the supply chain throughout the lifetime of the contract.

SPPN 2/2022 Public Procurement - Prompt Payment in the Supply Chain provides further information.

Selection & Award Criteria

You should always ensure your contracts are awarded to bidders who have a good payment performance history and have systems in place to ensure the supply chain is paid on time.

More information on how to add Prompt Payment as Selection & Award Criteria and what evidence is required can be found in Prompt Payment in the Supply Chain

Advice and Support

If you have any questions on prompt payment please contact: Scottishprocurement@gov.scot

Fair Payment Code

The Fair Payment Code is an initiative set up to help businesses demonstrate that they are meeting or working towards ensuring prompt payment of their supply chain, through a tiered award system (the achievement of ‘Gold’ confirms that they

are paying their supply chain within 30 days). It is aimed at driving best practice and improving payment performance within the UK business sector.

The Fair Payment Code replaces the previous Prompt Payment Code. The Fair Payment Code was developed to build upon the foundations established by the Prompt Payment Code, but it introduces some important enhancements. One of the significant changes is the implementation of a tiered award system, which recognises organisations at Gold, Silver, and Bronze levels based on their payment performance. This allows for greater transparency and encourages higher standards across the board. In addition, the Fair Payment Code Awards are restricted to a maximum of two years, with businesses required to reapply for their Award at the end of each two-year period, whereas with the Prompt Payment Code had no expiry date.

Additionally, the Fair Payment Code has strengthened its approach to verification by increasing the level of checks carried out. This ensures that organisations' compliance is robustly assessed and upheld. Payment performance data is analysed and all references approached. Another notable improvement is the introduction of a more rigorous complaints process. This provides a clear route for raising and addressing concerns, making the system more accountable and responsive for all stakeholders.

Overall, the Fair Payment Code aims to create a more transparent, reliable, and supportive environment for fair payment practices, with improved recognition and assurance mechanisms compared to the Prompt Payment Code, with the importance of being clear, fair, and collaborative with your supply chain.

For further Information, please go to the Prompt Payment In the Supply Chain page