



## **PAYMENT OF INVOICES IN PUBLIC CONTRACT SUPPLY CHAINS WITHIN 30 DAYS**

### **Purpose**

1. The purpose of this Policy Note is to ensure that purchasers are aware of a new clause that has been introduced into the Scottish Government standard terms and conditions of contract and to ask other public bodies to adopt the clause in their terms and conditions of contract.

### **Background**

2. Prompt payment of suppliers is a key element of the Scottish Government's Economic Recovery Programme. In support of this, the First Minister announced during the Business in Parliament conference in June that a new clause would be introduced into Scottish Government contracts to require payment of valid contractor and sub-contractor invoices within 30 days throughout the supply chain of public contracts. The First Minister commented that "the effect of late payment on small businesses, particularly in the current economic climate, is completely unacceptable and must be stopped. The Scottish Government is leading by example and I would encourage all other organisations to follow suit".

### **New Clause**

3. The text of the clause can be found at Annex A and the complete Scottish Government terms and conditions can be downloaded from the SPD Toolkit (<http://www.scotland.gov.uk/Topics/Government/Procurement/about/SPDDOCFORMS>). The essential features of the clause are:-

- valid invoices must be paid within 30 days of receipt, at all stages of the supply chain relating to the contract;

- when a public body has paid an invoice submitted by the prime contractor which includes payment for work carried out by a sub-contractor, the prime contractor is obliged to pay the sub-contractor's invoice without deduction (once submitted);
- each individual contract should specify a contact point/named individual to whom issues regarding non-payment within the 30 day period can be raised; and,
- contractors are obliged to ensure that a clause in the same terms is included in the terms and conditions of any sub-contract for the purposes of performing the contract.

4. All public bodies who do not use the Scottish Government's standard contracts are asked to amend their own standard terms and conditions to include the clause at Annex A (or an equivalent provision). For certain types of contracts such as construction-related contracts where practice might be to use industry-specific or sector-specific terms and conditions, public bodies should ensure that the new clause (or an equivalent provision) is added to these contracts.

5. There is no requirement to amend existing contracts, but all public bodies should ensure that the clause forms part of the terms and conditions of contract used in all future tendering exercises and is inserted into terms and conditions used in current tendering exercises where it is feasible to do so.

### **Dissemination**

6. Please bring this SPPN to the attention of all relevant staff, including those in Agencies, Non-Departmental Public Bodies and other sponsored public bodies within your area of responsibility.

### **Contact**

7. Enquiries about this SPPN should be addressed to Iain Moore, Scottish Procurement Directorate, telephone 0141 242 5596 or e-mail [iain.moore@scotland.gsi.gov.uk](mailto:iain.moore@scotland.gsi.gov.uk).

**Scottish Procurement Directorate**  
**The Scottish Government**  
**2nd Floor**  
**Europa Building**  
**450 Argyle Street**  
**Glasgow**  
**G2 8LG**

## **PAYMENT OF INVOICES IN PUBLIC CONTRACT SUPPLY CHAINS WITHIN 30 DAYS**

### **WORDING OF NEW CLAUSE – EXTRACT FROM SCOTTISH GOVERNMENT TERMS AND CONDITIONS OF CONTRACT FOR THE PURCHASE OF SERVICES**

“19.3 Where the Supplier enters into a sub-contract for the purpose of performing the Contract, the Supplier shall cause a term to be included in such sub-contract:

19.3.1 which requires payment to be made to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid invoice as defined by the sub-contract requirements and provides that, for the purpose of payment alone, where the Purchaser has made payment to the Supplier and the sub-contractor’s invoice includes Services in relation to which payment has been made by the Purchaser then, to the extent that it relates to such Services, the invoice shall be treated as valid and payment shall be made to the sub-contractor without deduction.

19.3.2 which notifies the sub-contractor that the contract forms part of a larger contract for the benefit of the Scottish Government and that should the sub-contractor have any difficulty in securing the timely payment of an invoice that matter may be referred by the sub-contractor to [insert contact name and address etc] and

19.3.3 in the same terms as that set out in this clause 19.3 (including for the avoidance of doubt this clause 19.3.3) subject only to modification to refer to the correct designation of the equivalent party as the Supplier and sub-contractor as the case may be.”