



DON'T PAY, CAN'T PLAY – CABINET OFFICE PUBLISHES NEW PROCUREMENT POLICY NOTES ON APPROACHES TO SUPPLIER PAYMENT PROCESSES WHEN PROCURING MAJOR GOVERNMENT CONTRACTS

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On 3 December 2024, the Cabinet Office published Procurement Policy Notes 015 and 018 (the “PPNs”), which set out how in-scope organisations can consider a supplier's approach to payment when procuring major government contracts.

The PPNs apply to all central government departments, their executive agencies and non-departmental public bodies when awarding public contracts for goods, services and/or works with an anticipated contract value above £5m (including VAT) per year under the Procurement Act 2023 (subject to very limited exceptions). This is based on the advertised contract value over the life of the contract.

The PPNs are accompanied by guidance notes containing a set of standard procurement questions to assist contracting authorities to determine whether a bidder has effective payment systems in place to ensure a reliable supply chain. The standard procurement questions include a series of “self-declarations” assessed on a pass / fail basis. These cover issues such as whether the bidder intends to use a supply chain and, if so, whether it has systems in place to pay its supply chain and to resolve disputed invoices promptly and effectively.

The declarations are supplemented by questions regarding the percentage of invoices that the bidder has paid to its immediate supply chain within each of the two previous six-month reporting periods and the average number of days that it takes to pay invoices (amongst other things).

Generally, to “meet” the standards in the PPNs, a bidder will need to demonstrate that it has paid at least 95% (90% with an action plan) of invoices within 60 days and paid all invoices within an average of no greater than 55 days. If the bidding supplier fails to meet these standards, it will be deselected from the relevant procurement. In effect, this means that suppliers who fail to achieve the required standards will be unable to land any contracts that fall within the scope of the PPNs.

Where it is not relevant or proportionate (having regard to the nature, cost and complexity of the contract) to apply the PPNs, contracting authorities may apply for an exemption. The PPNs suggest that this might include where, for example, there is a civil emergency. However, exemptions can only be agreed by the relevant Cabinet Office minister and will require the contracting authority to produce an evidence-based rationale for the request, as well as an alternative measure to improve payment performance in the specific market area. Therefore, the bar for exemptions appears high.

PPN 015 replaces several previously issued PPNs, including PPN 10/23 and PPN 08/21, the key change from its predecessors being that PPN 015 ensures that the PPN applies to procurements under the Procurement Act 2023 and reflects new terminology introduced by the Procurement Act 2023 and the Procurement Regulations 2024. The provisions of PPN 015 apply to relevant procurements advertised on or after 24 February 2025 (i.e. the revised 'go live' date for the Procurement Act 2023).

From 1 October 2025, PPN 015 will be replaced by PPN 018. The key change being that the latter will reduce the average number of days within which a bidder is required to have paid all invoices from 55 to 45 days.

Comment

Payment issues are one of the most common causes of disputes within the construction industry, and governments have tried (with varying degrees of success) to find ways of tackling late payment and encouraging better cash flow for many years. Given the new Labour government's "ambitious" plans for infrastructure and housebuilding, it is perhaps unsurprising to see these changes in the PPNs. Combined with the requirements of the Fair Payment Code and Reporting on Payment Practices and Performance (Amendment) (No. 2) Regulations 2024 (see our article [here](#)), it certainly appears that this government intends to continue efforts to encourage fairer payment practices in the industry.

That said, the PPNs are not a panacea. Whilst their focus on payment performance up to the beginning of the procurement process should incentivise fair payment practices in the aggregate, it is unlikely to provide much comfort to individual members of the supply chain if / when issues arise later down the line. In that respect, it would perhaps be useful for future PPNs to allow for supply chain members to report on their own experiences obtaining payment from the relevant bidder, and for those reports to be taken into account by procuring authorities.

It is important that prospective bidders to major government contracts review the PPNs and associated guidance and ensure that processes are in place to ensure payments to suppliers are made promptly and evidenced appropriately. Prospective bidders should also review their standard supplier terms and make sure that the payment provisions are consistent with the requirements of the PPNs.

Copies of the PPNs and accompanying guidance notes are available here: [PPN 015](#) and [PPN 018](#).

If you have any queries in relation to the PPNs or public procurement generally, or for advice on how to manage the requirements in your contracts/subcontracts, please do not hesitate to contact James Hughes, Nadir Hasan or Paul Henty.

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