

PE1824/E

Auditor General for Scotland response of 30 October 2020

Paying suppliers promptly is important for ensuring they have sufficient cash flow to meet their own commitments, for example paying staff wages and for goods and services received. This is particularly the case during the current pandemic, where many small and medium sized enterprises are finding it hard to make ends meet.

The Procurement Reform (Scotland) Act 2014 (the Act) requires contracting authorities who expect to spend at least £5 million annually to publish a strategy setting out how, so far as reasonably practicable, payments under public contracts with contractors, and between contractors and sub-contractors, are to be made within 30 days. The Act also requires contracting authorities to prepare an annual report on their procurement activities. Contracting authorities are defined as entities which are legally capable of awarding a public contract, so include bodies such as the Scottish Government, its agencies and non-departmental public bodies, and local authorities.

The Act is supported by the Scottish Procurement Policy Note 8/2009 which requires contracting authorities to include a clause in their standard conditions of contract requiring payment of valid invoices within 30 days throughout the supply chain. Separately, the Scottish Government, and its associated bodies, aspire to a 10-day target for paying bills to businesses, although this does not apply to invoices between contractors and sub-contractors.

The Scottish Government, its executive agencies and the Crown Office and Procurator Fiscal Service publish their payment performance against the 10-day target as part of the Performance Report section of their annual report and accounts. As auditors, we are required to review the Performance Report for any inconsistencies with the financial statements and our wider audit knowledge of the public body. In practice, this means that we are unlikely to audit payment performance statistics unless it is encountered as part of the above. Similarly, while we would expect public bodies to have in place arrangements for monitoring the prompt payment of sub-contractors, for example by carrying out spot checks, we are not required to audit payment performance in this regard. Equally, public bodies' annual procurement reports are not subject to audit.

From the above, you will gather it is for public bodies themselves to ensure they are adhering to the relevant legislation and good practice guidance surrounding prompt payment. Central government public bodies' reporting of their performance does not suggest that prompt payment of contractors is a significant problem. However, it is less clear how well public bodies ensure prompt payment between contractors and sub-contractors.

I note from the Scottish Government's response to this petition that it is considering further work in this area which we will keep under review. I am

also aware of the Economy, Energy and Fair Work Committee's 2019 inquiry into the construction industry and its findings on the payment of contractors.

Accordingly, I will also ask the auditors of Transport Scotland, as a major procurer of construction contracts, to consider the scope for additional audit work in payment performance as part of their 2020/21 audit planning.

Depending on their findings, I will consider whether wider audit activity in this area is warranted.

I hope this is helpful to you.