



Frequently Asked Questions

Payment Times Procurement Connected Policy

16/08/2021

Policy Application

What is the Payment Times Procurement Connected Policy?

The Payment Times Procurement Connected Policy (PT PCP) is a Commonwealth Government Procurement Connected Policy. The PT PCP requires large businesses (defined as [Reporting Entities](#) in the *Payment Times Reporting Act 2020*) that are awarded government contracts valued over \$4 million (GST inclusive) with non-corporate Commonwealth entities to:

- pay subcontracts of up to \$1 million (GST inclusive) that contribute to those large Commonwealth contracts in 20 calendar days; and
- flow down these payment times requirements to subcontract(s) that contribute to the Commonwealth contract and which are:
 - valued over \$4 million (GST inclusive) and;
 - awarded to a Reporting Entity; and.
- require subcontractors that are Reporting Entities to also flow down the payment times requirement to any of their subcontractors who meet the above requirements.

How do I know if my business is a Reporting Entity?

You can find if you are a Reporting Entity by looking at the definitions in the [Payment Times Reporting Act 2020](#).

Does the policy apply to existing contracts?

No. The policy will apply only to new approaches to market valued above \$4 million (GST inclusive) released on or after 1 October 2021. This includes procurements for the establishment of new deeds of standing offer (panel) arrangements.

Work orders placed under deeds of standing offer that are established prior to 1 October 2021 are not in scope of the policy.

What do I need to do in the transition period of 1 July 2021 to 30 September 2021?

During the transition period businesses and government agencies are expected to update their processes and systems as necessary in preparation for the policy commencement on 1 October 2021.

Are there model clauses available to support this policy?

Recommended PT PCP contract clauses are available in Appendix A of the PT PCP Guidelines. These model contract clauses are also referred to on the Department of Finance's [ClauseBank](#).

Do Commonwealth Procurement officers need to determine whether a tenderer is a Reporting Entity?

The tenderer is required to assess and self-declare whether it is a Reporting Entity or not. Commonwealth Procurement officers are not required to assess or verify the tenderer's self-declaration.

What happens if a large business' status as a Reporting Entity changes after tender submission, but before execution of the contract, or during the life of the contract?

Only the status of a business as a Reporting Entity at the time of the tender self-declaration is relevant for the purposes of the PT PCP. Tenderers that self-declare as a Reporting Entity at the time of tender submission will be required to comply with the policy, even if their status as a Reporting Entity changes before the contract is signed or during the life of the contract.

Do I have to pay all of my invoices within 20 calendar days?

No. The PT PCP requires subcontracts valued up to \$1 million (GST inclusive) that contribute to the Government contract to be paid within 20 calendar days.

What if I have three contracts with Government with a combined total above \$4 million (GST inclusive)?

The PT PCP will apply only to individual Government contracts valued above \$4 million (GST inclusive) that are awarded to a Reporting Entity.

Does the policy still apply if a subcontract is varied to \$1 million (GST inclusive) or above?

Yes. The policy continues to apply to subcontracts that are varied, where the original subcontract was valued up to \$1 million (GST inclusive).

Which contracts under a standing offer arrangement are subject to the policy requirements?

The PT PCP requires individual work orders with subcontractors valued up to \$1 million (GST inclusive) under standing offer arrangements (head agreements) that contribute to the Government contract to be paid within 20 calendar days.

I am an NCE procuring from an established panel arrangement. Does the PT PCP apply to work orders that I enter into?

The PT PCP will only apply to work orders entered into under a deed of standing offer (panel arrangement) where the deed of standing offer was established on or after 1 October 2021 and which contains PT PCP clauses. The policy will apply where the work order is valued above \$4 million (GST inclusive) and awarded to a Reporting Entity.

My subcontractor hasn't delivered the goods or services, do I have to pay them within 20 calendar days?

You are only required to pay the subcontractor within 20 calendar days following the acknowledgement of the satisfactory delivery of goods or services and the receipt of a correctly rendered invoice as per the contractual arrangement.

Does the policy apply to overseas procurements or contracts?

No. The policy does not apply and does not have to be reflected in the approach to market documentation when procuring and consuming goods and services overseas. For example, if you are procuring medical equipment that will be used overseas, the policy does not apply.

Where the goods and services will be partly procured and consumed in Australia and partly overseas, then the policy applies to the extent that the goods and services are procured and consumed in Australia.

Does the policy apply to real property procurements, including leases and licences?

No. The policy does not apply if procuring real property, including leases and licences.

Does the policy apply to Whole of Australian Government (WoAG) arrangements?

New Standing Offer (panel) arrangements established on or after 1 October 2021 will be subject to the Payment Times Procurement Connected Policy. WoAG arrangements established prior to this date will continue as they are until they expire.

There is no requirement for entities accessing WoAG arrangements to undertake an action in relation to the PT PCP unless directed otherwise.

Compliance

Can a late payment complaint be submitted anonymously?

Yes. However, broadly speaking, complaints do need to have as much information about the incident as possible so they can be promptly resolved. Further, to follow up on a complaint the details of the complainant will need to be verified and doing so could directly or reasonably identify the

complainant. For all complaints (including non-anonymous complaints), the PT PCP clauses prevent large businesses from taking any prejudicial action against a complainant.

Will I lose access to Government contracts if a subcontractor submits a complaint?

No, complaints raised in relation to the PT PCP do not prevent participation in future procurement processes nor does it compel a Commonwealth entity to terminate an existing contract. If a complaint is lodged in relation to your contract, the Commonwealth may recommend a course of action. For example, the payment of interest on late payments in accordance with the policy and the completion of a Remediation Plan.

What is a PT PCP Remediation Plan?

PT PCP Remediation Plans are documents that record why an error has occurred, how it has been rectified and how future non-compliance will be prevented.

A template is available at Appendix D of the PT PCP Guidelines.

How do I calculate interest on late payments?

Interest is payable at the general interest charge rate from the day after the amount is due and payable up to and including the day that payment is made. The general interest charge rate, available from the Australian Taxation Office, is the rate on the day that payment is due. Entities are to use this single rate when calculating late payment interest and are not required to recalculate the general interest charge rate if it changes during the period.

When calculating interest, entities should be mindful that if the agreed payment period in a contract is shorter than the period required by the policy, then the shorter payment period is relevant when calculating late payment interest. If the last day for payment falls on a non-business day, payment is not due until the next business day. Note: Interest is only payable if the amount accrued is more than \$100.

An [online calculator](#) is available on the Department of Finance website that will assist entities to determine the amount of any late payment interest.

Is there a timeframe within which interest is to be paid?

The policy does not specify a timeframe within which interest payments are to be made, however entities should pay interest promptly, otherwise the interest will continue to accrue.

Is interest payable on the whole amount or the outstanding amount?

Interest payable on late invoices is calculated only for outstanding payable amounts. If the Reporting Entity has paid a proportion of the amount to the subcontractor, interest is not accrued on the amount already paid.

Monitoring and evaluation

Will I be required to participate in an annual policy evaluation?

Some large businesses will be selected to participate in an annual policy evaluation. If selected, they will be required to complete and submit a PT PCP Evaluation Questionnaire within the time specified in the request.

Do I have to provide ongoing evidence that I am complying with the policy?

You may be required to provide information on your payment times for eligible PT PCP Subcontracts if you are selected to complete an evaluation questionnaire. The information you provide through this questionnaire will be used for the purpose of policy evaluation.