This guide contains material that has been prepared to assist Commonwealth entities and companies to apply the principles and requirements of the Public Governance, Performance and Accountability Act 2013 and associated rules, and any applicable policies. In this guide the: mandatory principles or requirements are set out as things entities and officials ‘must’ do; and actions, or practices, that entities and officials are expected to take into account to give effect to those and principles and/or requirements are set out as things entities and officials ‘should consider‘ doing.
Audience

This Guide is relevant to non-corporate Commonwealth entities. It is particularly relevant to Chief Financial Officers (CFOs) and their staff, and officials who are responsible for the non-corporate Commonwealth entity's internal controls and processes.

Key points

This Guide:

- is relevant to non-corporate Commonwealth entities;
- gives key information for entities applying the policy; and
- is available on the Finance website at www.finance.gov.au

Resources

This guide is available on the Department of Finance website at www.finance.gov.au.


Online Interest Calculator

Contact information: procurementagencyadvice@finance.gov.au
Policy

1. Non-corporate Commonwealth entities are to agree to payment terms that provide payment no later than 30 days after the date of receipt by the non-corporate Commonwealth entity from the supplier for contracts valued up to and including A$1 million (GST inclusive).

2. Where payment is not made within the maximum payment terms, the non-corporate Commonwealth entity is to pay interest to the supplier where the amount accrued is more than A$10 (GST inclusive).

Guidance

3. For contracts valued up to and including A$1 million (GST inclusive) between non-corporate Commonwealth entities and suppliers for payments, non-corporate Commonwealth entities will agree to payment terms that provide payment no later than 30 days after the date of receipt by the non-corporate Commonwealth entity of a correctly rendered invoice. The non-corporate Commonwealth entity may agree to make payments within a shorter period than 30 days.

4. Non-corporate Commonwealth entities must, where they do not pay a correctly rendered invoice in full and the amount of interest is more than A$10, make a self-generated interest payment to the supplier for any outstanding simple interest accrued.

5. This policy does not prevent non-corporate Commonwealth entities from agreeing to the payment of interest in other circumstances or constrain the arrangements in those circumstances.

6. This policy applies to the procurement of goods and services from departmental items and non-corporate Commonwealth entities must use their Departmental appropriation to pay the interest amount.

7. This policy does not apply to:
   - procurement of real property including leases and licences;
   - procurement where the funding source is an administered appropriation;
   - procurements where the nature of the goods and services, or the structure of the procurement, would make it impractical for the policy to be applied. For example, where the procurement occurs under standard terms and conditions put forward by the supplier rather than the non-corporate Commonwealth entity; or
   - procurements where prior to the date of effect of this policy, a contract or standing offer was already in place or in the process of being negotiated.

Interest Payable

8. Interest is payable at the general interest charge rate available on the ATO's website, calculated in respect of each day from the day after payment was due up to and including the day that payment of the contract amount is made.

9. Interest is not payable unless the amount of interest is more than A$10.

10. Examples on calculating interest are at Attachment A and example clauses for inclusion in draft contracts are at Attachment B.
Approaching the Market

11. A non-corporate Commonwealth entity must ensure that any approach to the market which includes a draft contract indicates that the contract will include clauses to give effect to the policy set out in this Resource Management Guide.

Determining the value of a contract

12. All contract options should be taken into account when determining the value of the contract, as should any GST payable by the non-corporate Commonwealth entity in relation to the contract.
13. If the value of the contract is not known, for example if it is a deed of standing offer, it should be assumed for the purposes of this policy that the value will be less than A$1 million (GST inclusive) unless it is reasonable to assume otherwise.

Example of calculating penalty interest

14. A non-corporate Commonwealth entity makes a payment 43 days after receiving a correctly rendered invoice, with maximum payment terms of 30 days. The value of the unpaid amount is $100,000 and the total contract value was valued at or less $1 million (GST inclusive).
   - Assume the relevant daily general interest charge rate is 0.02638356% (available on the ATO website and updated quarterly);
   - the value of the unpaid amount is $100,000; and
   - payment occurs 13 days after the conclusion of the 30 day payment period (day 43) specified in the written contract. The date was determined based on the date the correctly rendered invoice was received and the day that the payment was made by the non-corporate Commonwealth entity.
   - Interest = $100,000 x (0.02638356 / 100) x 13
     = $342.99
Definitions

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the act is to be performed.

Correctly Rendered Invoice means an invoice which is:

rendered in accordance with all of the requirements of the written contract (note that written contracts will often specify that the invoice must be a tax invoice and/or that certain information must be included in the invoice and/or the format of the invoice); and

for amounts that are correctly calculated and due for payment and payable under the terms of the written contract (note that many written contracts will specify that payment is not required until the non-corporate Commonwealth entity is satisfied with the goods or services).

General Interest Charge Rate means the interest charge determined under section 8AAD of the Taxation Administration Act 1953 on the day that payment is due. Details of the General Interest Charge rate are available from the Australian Taxation Office website.

procurement has the same meaning as in the Commonwealth Procurement Rules.

receipt by the non-corporate Commonwealth entity means the day that the correctly rendered invoice is received by the non-corporate Commonwealth entity.

the day that payment was made is the day that the non-corporate Commonwealth entity’s system generates a payment request into the banking system for payment to the business.
Example Draft Contractual Clauses

For relevant contracts with any supplier up to A$1 million.

The following clauses provide an example of the type of clauses which reflect the policy and may be appropriate to include in contracts. These clauses are an example only and agencies may draft their own clauses to implement this policy. If agencies do use the model clauses, care should be taken to ensure that the model clauses are correctly adapted to the relevant contract – for example by ensuring they are consistent with the language used in the contract and do not conflict with other clauses and definitions elsewhere in the contract.

Example clause to establish 30 day payment terms + late interest

X. Payment Terms

X1. The non-corporate Commonwealth entity will pay the Supplier within 30 days after receipt of a Correctly Rendered Invoice. If this period ends on a day that is not a Business Day, payment is due on the next Business Day.

Y. Interest

Y1. This Clause Y only applies where:
   (a) the value of this Contract is not more than A$1 million (GST inclusive); and
   (b) the amount of the interest payable exceeds A$10.

Y2. For payments made by the non-corporate Commonwealth entity more than 30 days after the amount became due and payable, the non-corporate Commonwealth entity must pay the Interest accrued on the payment.

Y3. Interest payable under this clause Y will be simple interest on the unpaid amount at the General Interest Charge Rate, calculated in respect of each day from the day after the amount was due and payable, up to and including the day that the non-corporate Commonwealth entity effects payment as represented by the following formula:

\[ SI = UA \times GIC \times D \]

1. Where:

2. \( SI \) = simple interest amount;
3. \( UA \) = the unpaid amount;
4. \( GIC \) = General Interest Charge Rate daily rate; and
5. \( D \) = the number of days from the day after payment was due up to and including the day that payment is made.

Y4. In this clause Y “General Interest Charge Rate” means the general interest charge rate determined under section 8AAD of the Taxation Administration Act 1953 on the day payment is due, expressed as a decimal rate per day.

Z. Correct rendering of invoices

Z1. For the purposes of clauses X and Y, an invoice is correctly rendered if:
   (a) it is correctly addressed and calculated in accordance with the Contract; and
   (b) it relates only to supplies that have been delivered to the non-corporate Commonwealth entity in accordance with the Contract; and
   (c) it is a valid tax invoice in accordance with A New Tax System (Goods and Services Tax) Act 1999 (Cth).