

Making fair payment in construction a contractual requirement for new central government contracts.

The Office of Government Commerce's (OGC) Guide to Best 'Fair Payment' Practices published in 2007 set out the cross- industry agreement on the principles of Fair Payment, a model Charter and guidance on Project Bank Accounts.

There has recently been a new and very positive development.

Central government departments will make it a contractual requirement in new central government contracts that payments down the supply chain must be made within a certain period of time from the due date in the main contract. These new requirements are recommended best practice in the wider public sector.

The OGC Information Note 2/2010 available at http://www.ogc.gov.uk/estates_construction.asp provides detailed information.

Payment provisions.

The payment timescales are as follows:

- Tier 1 (main contractor) - within 14 calendar days from the due date.
- Tier 2 (sub-contractor) – within 19 calendar days from the due date in the main contract.
- Tier 3 (sub- sub – contractor) - within 23 calendar days from the due date in the main contract.

Payment terms, the assessment dates and due dates for Tiers 2 and 3 are to be aligned with those between the Employer and Tier 1.

A procedure is introduced for reporting where these requirements have not been met through OGC's Supplier Feedback System.

Action for members of the Supply Chain.

The Specialist Engineering Contractors (SEC) Group and RLB – Rider Levett Bucknall plc - will engage in a series of Regional Awareness Seminars. These will explain the new contractual requirements – particularly the non – compliance proposals - to members.

It is vital that the members of the supply chain understand how these new contractual requirements operate and what they have to do. The success of these new contractual requirements in delivering a step change in payment practices will be dependent on the participation of the supply chain.

Project Bank Accounts (PBAs).

The OGC recommend that central Government departments, their agencies and Non – Departmental Public Bodies should move to a position where PBAs are adopted unless there are compelling reasons not to do so. The use of PBAs aligns well with the fair payment contractual requirements as the PBA process automatically provides clients with visibility over payment timescales in the supply chain.