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ANNEX 4.6 EXPENDITURE AND PAYMENTS

As part of the process of authorising and controlling commitments and expenditure of public funds, public sector organisations should time their expenditure and payments to provide good value for public money.

A4.6.1 Public sector organisations should use good commercial practice in managing the flows of expenditure and commitments they deal with. Box 4.4 has some sound high level principles. These need to be interpreted in the context of each organisation's business, in line with current legislation and using modern commercial practice. The actual techniques used may thus change from time to time.

A4.6.2 In particular, public sector organisations should:

- explain payment procedures to suppliers;
- agree payment terms at the outset and sticking to them;
- pay bills in accordance with agreed terms, or as required by law;
- tell suppliers without delay when an invoice is contested; and
- settle quickly when a contested invoice gets a satisfactory response.

A4.6.3 In October 2008, the Government made a commitment to speed up the payments process. Public Sector Organisations should aim to pay suppliers wherever possible within 10 days. The principles in Box 4.4 must still be applied to all payments. Further guidance is available at www.berr.gov.uk.

A4.6.4 Public sector organisations are also bound by The Late Payment of Commercial Debts (Interest) Act 1988 (as amended by The Late Payment of Commercial Debt Regulations 2002 (SI 1674)). It provides a statutory right for suppliers to claim interest on late payments of commercial debt. Payment is regarded as late if made outside the agreed terms, or 30 days after receipt of a valid invoice where no terms are agreed. Public sector organisations should note any expenditure made outside these terms should be exceptional and noted in resource accounts.

Payments outside the normal pattern

A4.6.5 It is not good value for money for public sector organisations to act as a source of finance to contractors who have access to other forms of loan finance. So advance payments to contractors (ie payments made before equivalent value is received in return) should be exceptional, and should only be considered if a good value for money case can be made for them, eg a price discount commensurate with the time value of the funds in question. Even then, as advance payments lead to higher Exchequer financing costs, such payments are novel and contentious and usually require specific Treasury approval.

A4.6.6 Exceptions to these guidelines include:

- service and maintenance contracts which require payment when the contract commences, provided that the service is available and can be called on from the date of payment;

- payments for activities carried out by, or on behalf of a public sector funder, eg grant in aid to NDPBs or grants to small voluntary or community bodies where the recipient needs working capital to carry out the commitment for which the grant is paid; and
- minor services such as training courses, conference bookings or magazine subscriptions, where local discretion is acceptable;
- prepayments up to a modest limit agreed with the Treasury, where a value for money assessment demonstrates clear advantage in early payment.

A.4.6.7 Interim payments may have an element of prepayment and so public sector organisations should consider them carefully before agreeing to them. However, if they are genuinely linked to work completed or physical progress satisfactorily achieved, preferably as defined under a contract, they may represent acceptable value for public funds. Taking legal advice as necessary, organisations should, however, consider whether:

- the contractor's reduced need for working capital should be reflected in reduced prices;
- the contractor should provide a performance bond in the form of a bank guarantee to deal with possible breach of contract.

A.4.6.8 Public sector organisations should not, however, use interim payments to circumvent public spending controls. For example, it is not acceptable to make payments where value has not been received, simply to avoid underspending.

A.4.6.9 Deferred payments are generally not good practice. They normally mean paying more to compensate the contractor for higher financing costs and are thus poor value for money (at the margin the Exchequer can always borrow more cheaply than the private sector). So any proposal for deliberate late payment is potentially novel and contentious. Any department or NDPB considering deferred payments must thus seek Treasury approval before proceeding.